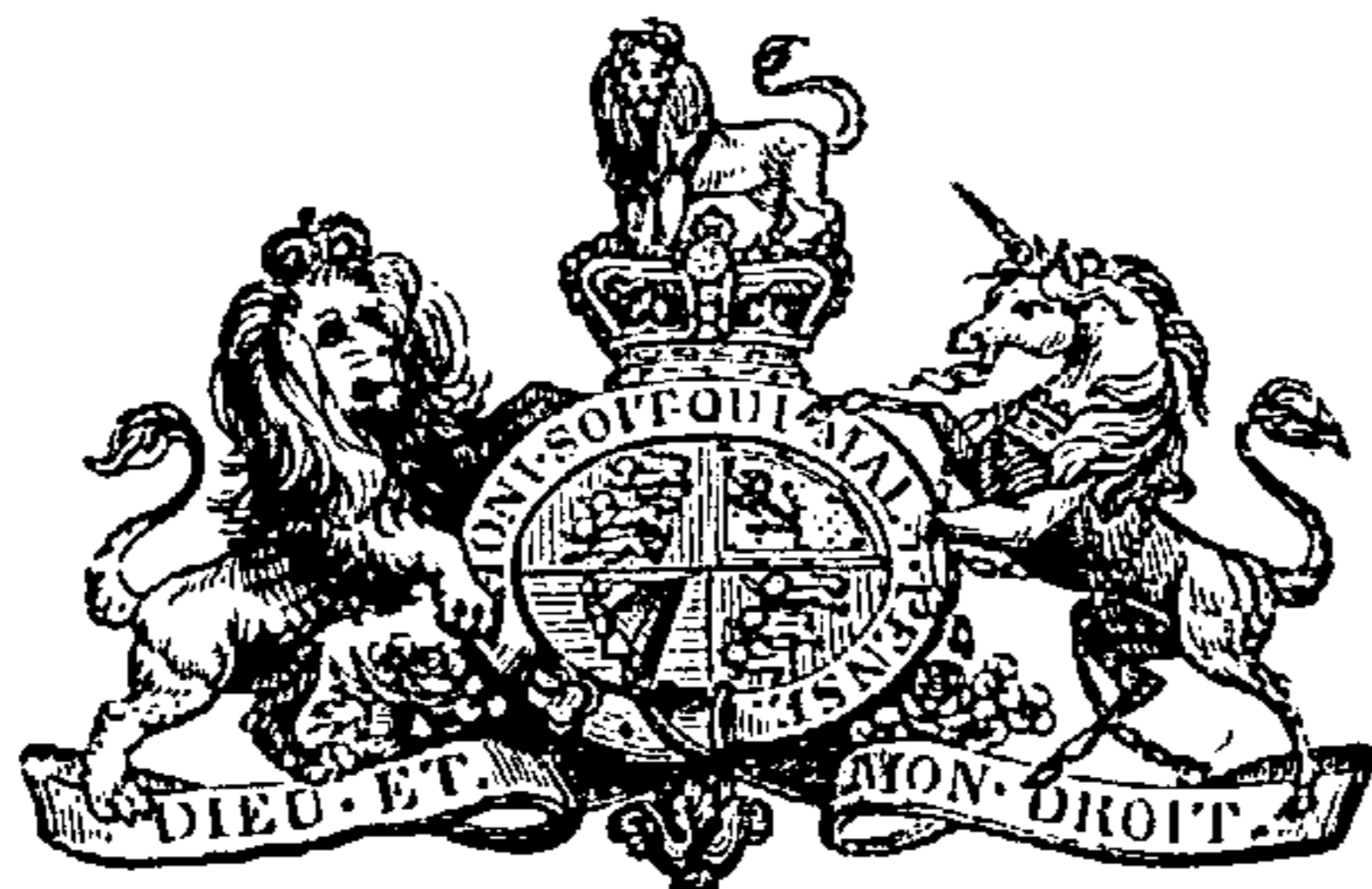


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*Railway Act, 1896.*



**CHAPTER cxliii.**

An Act to reconstitute the Board of Directors of the Freshwater Yarmouth and Newport Railway Company for raising further Moneys and for other purposes. A.D. 1896.

[20th July 1896.]

**W**HEREAS by the Freshwater Yarmouth and Newport Railway Act 1880 the Freshwater Yarmouth and Newport Railway Company (herein-after called "the Company") was incorporated and authorised to construct a railway from Freshwater to Newport in the Isle of Wight and county of Hants :

And whereas by the Freshwater Yarmouth and Newport Railway Act 1883 the Company was authorised to acquire and hold as part of their undertaking the hotel and other property of the Totland Bay Pier and Hotel Company Limited and to raise further capital for the purposes of the undertaking and by the Freshwater Yarmouth and Newport Railway (Deviations) Act 1887 the Company was authorised to deviate portions of their authorised railway and by the Freshwater Yarmouth and Newport Railway Act 1889 the Company was authorised to further deviate portions of their authorised railway and to raise further capital and by the Freshwater Yarmouth and Newport Railway Act 1891 the Company was authorised to raise a sum of twenty thousand pounds by the issue of debenture stock for the purposes of the undertaking :

And whereas the authorised share and loan capital of the Company under the several Acts of the Company before recited consists of—

Date of Act.	Capital authorised.	
	Share.	Loan.
1880	£ 100,000	£ 33,300
1883	42,000	14,000
1889	36,000	12,000
1891	—	20,000

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And whereas the following is a statement of the share and loan capital of the Company so far as the same has been issued and raised :—

Amount issued.	Class.	Amount raised.
£		£
47,300	Five per cent. perpetual debenture stock - -	47,300
19,200	Five per cent. " B " debenture stock - -	13,626
42,000	Five per cent. perpetual preference shares but since converted by the Company into five per cent. perpetual preference stock.	42,000
92,081	Ordinary shares subsequently converted by the Company into equal amounts of preferred and deferred ordinary shares and afterwards converted into equal amounts of preferred and deferred ordinary stock.	92,081
		£195,007

And whereas the Company has not since the passing of the Company's Act of 1883 proceeded further as regards the purchase of the hotel and property of the Totland Bay Pier and Hotel Company Limited :

And whereas the interest on the five per cent. perpetual debenture stock amounts to two thousand three hundred and sixty-five pounds per annum but no interest has been paid to the holders of such stock since the first day of January one thousand eight hundred and ninety-three and no interest has ever been paid on the five per cent. " B " debenture stock :

And whereas on the twenty-seventh day of May one thousand eight hundred and ninety-six George Frederick Colman was by an order of the High Court of that date appointed receiver and manager of the railway and has from such time continued to act and is now acting as such receiver and manager as aforesaid :

And whereas the undertaking of the Company has never been worked by the Company but has been worked for many years past by the Isle of Wight Central Railway Company but the working agreement will expire on the nineteenth day of July one thousand eight hundred and ninety-six notice to determine such agreement having been duly given by the Company and in the event of the Isle of Wight Central Railway Company not entering into a fresh working agreement with the Company engines and rolling stock will then be required for the working of the Company's undertaking :

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And whereas certain claims of landowners are still unsatisfied and it is necessary that such claims should be settled: A.D. 1896.

And whereas it is requisite that new capital should be raised to meet the above-named several purposes but under the existing circumstances of the Company it is impossible to raise any further capital except by a charge on the Company's undertaking in priority to all existing charges:

And whereas it is expedient to enable trustees executors guardians and persons having a limited interest to take and hold "A" debenture stock to be created under the powers of this Act in lieu of existing securities debts or claims or to make such other arrangements as they may deem expedient with the Company:

And whereas it is expedient that subject to the provisions of this Act the management of the Company should be vested with all necessary powers in a board on which the five per cent. perpetual debenture stock holders and the five per cent. "B" debenture stock holders as well as the preference and ordinary stock holders of the Company should be represented:

And whereas it is probable that the five per cent. perpetual debenture stock holders and the five per cent. "B" debenture stock holders will for many years to come be the persons having the only substantial interest in the undertaking subject to the "A" debenture stock to be created under the provisions of this Act:

And whereas it is expedient to provide for the discharge of the existing receiver and manager and to direct the appropriation of any moneys in his hands at the date of his discharge and to make provision for a period of suspense of actions and proceedings against the Company by debenture stock holders as herein-after provided:

And whereas it is expedient to provide for the appointment of a standing arbitrator to determine matters in difference that may arise between the directors to be appointed under the provisions of this Act:

And whereas the holders of more than three fourths in value of the five per cent. perpetual debenture stock and the five per cent. "B" debenture stock and the five per cent. perpetual preference stock respectively have assented in writing to and approved of the provisions of this Act:

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

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A.D. 1896. Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title. 1. This Act may be cited for all purposes as the Freshwater Yarmouth and Newport Railway Act 1896.

Interpretation. 2. In this Act the several words and expressions following shall (except when repugnant to the context) have the following meanings (that is to say):—

“The Company” shall mean the Freshwater Yarmouth and Newport Railway Company;

“The secretary” shall mean the secretary for the time being appointed by the Company;

“The Court” shall mean the Chancery Division or the Queen’s Bench Division of the High Court of Justice in England or any judge thereof respectively;

“The Company’s Acts” shall mean the Freshwater Yarmouth and Newport Railway Act 1880 the Freshwater Yarmouth and Newport Railway Act 1883 the Freshwater Yarmouth and Newport Railway (Deviations) Act 1887 the Freshwater Yarmouth and Newport Railway Act 1889 the Freshwater Yarmouth and Newport Railway Act 1891.

Incorporation of Part III. of Companies Clauses Act 1863.

3. Part III. (relating to debenture stock) of the Companies Clauses Act 1863 is (except where expressly varied by or inconsistent with the provisions of this Act) incorporated with and forms part of this Act.

Definition of class and class meetings.

4. For all the purposes of this Act there are constituted the following classes of the holders of debenture stocks preference stock holders and ordinary stock holders namely:—

The class of the five per cent. perpetual debenture stock holders (herein-after called “the first debenture stock holders”);

The class of the five per cent. B debenture stock holders (herein-after called “the second debenture stock holders”);

The class of preference stock holders (herein-after called “the preference stock holders”); and

The class of ordinary stock holders which shall mean and include the holders of preferred and deferred ordinary stock (herein-after called “the ordinary stock holders”) and the terms “class” and “class meetings” shall mean respectively any such class and meetings as in this Act provided of any such class of holders respectively.

Meetings of first and second debenture

5. The secretary shall convene a meeting of the class of first debenture stock holders and also a meeting of the class of second debenture stock holders to be held in the city of London or

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Westminster within one month after the passing of this Act such meetings to be convened by circular addressed to the first debenture stock holders and the second debenture stock holders according to their addresses registered in the registers of the holders of five per cent. perpetual debenture stock and five per cent. B debenture stock of the Company and also by advertisement to be inserted in two daily newspapers one published in the metropolis and the other published and circulating in the Isle of Wight such circulars to be sent by post and such advertisement to be published fourteen days at least before the day appointed for holding the aforesaid meetings respectively and such circulars and advertisement shall state that the object or business of the meeting will be to elect two directors on behalf of the first debenture stock holders and a director on behalf of the second debenture stock holders respectively in pursuance of this Act.

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stock holders  
for election  
of directors.

6. The first and second debenture stock holders shall be entitled to vote in person or by proxy at class meetings in the following proportion (that is to say) Every first debenture stock holder shall be entitled to one vote for the first ten pounds of stock for the time being standing in the name of such holder in the register of the Company and thereafter an additional vote for every five pounds of stock so held by him up to the amount of one hundred pounds of stock and thereafter an additional vote for every ten pounds of stock so held by him and every second debenture stock holder shall be entitled to vote upon a similar scale to that applicable in the case of the first debenture stock holders as regards stock for the time being standing in the name of such holder in the register of the Company.

Votes of first  
and second  
debenture  
stock holders  
at such  
meetings.

7. The secretary shall also convene a meeting of the preference stock holders to be held in the city of London or Westminster within one month after the passing of this Act such meeting to be convened in all respects in the same manner as the meetings of the classes of the first and second debenture stock holders and to be for the purpose of electing a director on behalf of the class of the preference stock holders in pursuance of this Act.

Meeting of  
preference  
stock holders  
for election  
of directors.

8. The preference stock holders shall be entitled to vote in person or by proxy at class meetings upon a similar scale to that applicable in the case of the first and second debenture stock holders as regards the stock for the time being standing in the name of such preference stock holder in the register of the Company.

Votes of  
preference  
stock holders  
at such  
meeting.

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Meeting of  
ordinary  
stock holders  
for election  
of directors.

9. The secretary shall also convene a meeting of the class of ordinary stock holders to be held in the city of London or Westminster within one month after the passing of this Act such meeting to be convened in all respects in the same manner as the meetings of the first and second debenture stock holders and to be for the purpose of electing a director on behalf of the ordinary stock holders in pursuance of this Act.

Votes of  
ordinary stock  
holders at such  
meeting.

10. The ordinary stock holders shall be entitled to vote at class meetings of the Company in the same manner in all respects as they are at present entitled to vote at meetings of the Company.

Directors to  
be five in  
number.

11. The directors of the Company shall be five in number and shall be elected by the first debenture stock holders the second debenture stock holders the preference stock holders and the ordinary stock holders in the class meetings in the following proportion (that is to say):—

For the term of three years from the date of the holding of the first class meetings after the passing of this Act and so long as and whenever the interest payable under the Company's Acts on the first debenture stock is in arrear two of such directors shall be elected by the first debenture stock holders one by the second debenture stock holders one by the preference stock holders and one by the ordinary stock holders;

When all arrears of interest have been paid and the current interest on the first debenture stock has been earned and paid for one year then two of such directors shall be elected by the second debenture stock holders two by the preference stock holders and one by the ordinary stock holders and thereupon the first debenture stock holders shall cease to elect directors so long as the interest due on such first debenture stock is earned and paid:

When all arrears of interest payable upon the second debenture stock together with the current interest has been paid for one year then three of such directors shall be elected by the preference stock holders and two by the ordinary stock holders and thereupon the second debenture stock holders shall cease to elect directors so long as the interest due on such second debenture stock is earned and paid;

And lastly when the full dividends payable upon the preference stock have been paid then all the directors shall be elected by the ordinary stock holders:

Any of the directors who may from time to time be elected at any of the class meetings for the purpose of representing the special interests of any particular class on the board of directors shall in

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the absence of his colleague or colleagues (if any) representing such class be entitled to vote on behalf of his colleague or colleagues in addition to his own vote.

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**12.** The quorum of a meeting of directors shall be three.

Quorum of directors.

**13.** The present board of directors of the Company shall continue in office until a new board of directors be elected pursuant to the provisions of this Act and so soon as the directors who are to constitute the new board shall have been elected as in this Act provided the present directors or such of them as shall not have been elected directors of the new board shall retire from office and the powers conferred on the present board of directors by the Company's Acts and the Acts incorporated therewith and the management of the Company shall until the powers of the board constituted under this Act shall have ceased be vested in that board subject to the provisions of this Act.

Retirement of present board of directors upon election of new board.

**14.** The first directors elected pursuant to the provisions of this Act shall hold office until the class meetings for the election of directors to be held in the year one thousand eight hundred and ninety-nine and every director subsequently elected shall hold office until the directors to be elected immediately next after his election shall come into office.

Period for which directors shall hold office.

**15.** The qualification of a director of each class shall be the possession of five hundred pounds nominal value of the particular debenture stock or preference or ordinary stock belonging to such class.

Qualification of directors.

**16.** A class meeting of each class so long as and whenever any interest due to such class shall be in arrear or the full dividends unpaid shall be convened once in every third year upon or before a day corresponding with the date of the first class meetings at such time and place as shall be determined by the board of directors for the election of directors and at such meetings directors shall be elected for the term of three years by each class Provided that any retiring director shall be eligible for re-election.

Triennial election of directors.

**17.** If and whenever any director elected by the class of the first or second debenture stock holders or by the preference stock holders or by the ordinary stock holders shall die or resign or become disqualified or incompetent to act as a director or cease to be a director it shall be lawful for the first or second debenture stock holders or the preference stock holders or the ordinary stock holders as the case may be at a class meeting to be convened as

Mode of supplying vacancies in board of directors.

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herein-before provided at such time and place as shall be determined by the board of directors to elect in the manner herein-before provided another director in his place Provided always that the election of a first debenture stock holders director shall always be made by the first debenture stock holders only and the election of a second debenture stock holders director by the second debenture stock holders only and the election of a preference stock holders director by the preference stock holders only and the election of an ordinary stock holders director by ordinary stock holders only But any person who is holder of more than one class of stock may vote in respect of his qualification in each class of stock in the election of a director or directors for each such class Any such election as herein-before mentioned shall be made within two months of any such director dying or resigning or becoming disqualified or incompetent to act or ceasing to be a director.

Votes of  
debenture  
stock holders  
and prefer-  
ence stock  
holders at  
general  
meetings.

**18.** So long as and whenever any interest due to the holders of the first or second debenture stock shall be in arrear or the full dividend shall not have been paid to the preference stock holders as the case may be then notwithstanding anything contained in any Act relating to the Company every holder of such debenture stock or preference stock in respect of which there shall be interest in arrear or the full dividend not paid as aforesaid shall be entitled to be present in person or by proxy and to vote in the several proportions herein-before set forth at every general meeting of the Company and the holders of such debenture stock and preference stock shall for the purposes of the Companies Clauses Consolidation Act 1845 and for the purposes of any standing order of either House of Parliament but subject to the provisions of this Act be deemed proprietors or stock holders of the Company and the first and second debenture stocks and the preference stock shall be deemed to be paid up capital of the Company Provided always that nothing in this section contained and no rights and privileges thereby conferred upon the holders of debenture stock shall be held to take away abridge diminish or in any way prejudicially affect any of the rights powers and privileges of the debenture stock holders to which they would have been entitled in case the right of being present and voting at meetings of the Company had not been conferred upon them.

Reports to be  
sent to debenture  
stock holders and  
preference  
stock holders

**19.** All reports and accounts of the Company required to be or usually sent to the ordinary stock holders shall also be sent in like manner to the holders of first and second debenture stock and to the preference stock holders.



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**20.** The secretary shall convene at any time when so required in writing by fifteen members of the class a meeting of the class of the first or second debenture stock holders or of the class of the preference stock holders or of the class of the ordinary stock holders for any special purpose.

A.D. 1896.  
Mode of  
convening  
class meet-  
ings.

**21.** The conduct of any general meeting of the Company or of any class meeting shall save only as expressly varied by this Act be in accordance with the provisions of the Companies Clauses Consolidation Act 1845 with respect to general meetings of the Company as if such meetings were general meetings of a company under that Act.

Conduct of  
general and  
class meet-  
ings.

**22.** The provisions of the Companies Clauses Consolidation Act 1845 with respect to the proceedings and liabilities of directors shall subject to the provisions of this Act apply to the board of directors to be appointed under this Act.

Proceedings  
of directors.

**23.** Without the consent in writing of the holders of at least three fourths in value of the first debenture stock no general meeting shall be convened for the purpose of authorising any application to Parliament for the raising of further moneys in connexion with the undertaking of the Company and without such consent as aforesaid no questions of general policy in connexion with the conduct of the Company's affairs as distinguished from questions incident to the ordinary management of the undertaking shall be submitted to any general meeting. Provided that if any difference shall arise between the directors as to whether any such question is a question of general policy or only a question incidental to the ordinary management of the undertaking any director may require such difference to be referred to the standing arbitrator herein-after mentioned whose decision thereon shall be final.

As to  
consent of  
debenture  
holders to  
the raising  
of further  
capital and  
as to ques-  
tions of  
general  
policy.

**24.** At the first meeting of the new board of directors held after the passing of this Act and at a meeting of the board held in the month of December in every succeeding year so long as any interest on the first and second debenture stock is in arrear the board shall take into consideration the question of appointing a standing arbitrator in the manner and for the purposes herein-after mentioned. If the directors shall be able to unanimously agree upon some person and such person shall consent to act then the directors shall by writing appoint such person to be the standing arbitrator and shall fix the remuneration to be paid to him but if the directors shall not be able to agree or if they shall fail or neglect to appoint a standing arbitrator during such month of

As to  
referring  
matters in  
dispute to  
arbitration.

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A.D. 1896. December then such standing arbitrator shall be appointed by the Board of Trade and the Board of Trade shall fix the remuneration to be paid to the arbitrator appointed by them which remuneration shall be paid by the Company.

The arbitrator first so appointed shall enter upon his duties immediately after such appointment and shall remain in office until the thirty-first day of December one thousand eight hundred and ninety-seven and each succeeding arbitrator so to be appointed shall remain in office for one year commencing the first day of January but every person shall be capable of re-appointment as arbitrator.

Any standing arbitrator may be removed from his office under the hand of all the directors in writing or by the Board of Trade by writing under the hand of the secretary to the Board on the representation of the Company.

If any standing arbitrator dies or resigns or is removed from office the directors shall in manner aforesaid within two months after notice of such death or resignation or after such removal appoint another standing arbitrator in his place and in default a standing arbitrator shall be appointed by the Board of Trade in manner aforesaid and any arbitrator so appointed shall remain in office for the remainder of the year for which the original appointment was made and also for the succeeding year.

Where a standing arbitrator goes out of office by expiration of time but not otherwise any matter already referred to him and not decided by him before his going out of office shall continue to be referred to and shall be decided by him and his decision thereon shall have the like effect as if his year of office had not expired.

Any director appointed under the provisions of this Act shall be entitled to require that any question upon which a difference shall have arisen at the board shall be referred to the standing arbitrator and thereupon such question shall be referred to him accordingly.

The standing arbitrator may at any time on the application of any director of the Company convene a special meeting of the directors giving to each director at his usual place of abode not less than six days notice in writing of any such meeting and for the purpose of any such special meeting the arbitrator may decide that the members present constitute a quorum. Every award or decision of any standing arbitrator for the time being shall be final and conclusive and binding on the directors and on the Company with respect to the matters submitted to him. The standing arbitrator at such meeting or by such award may direct such proceedings to be taken and such things to be done as he may deem necessary for effectually carrying out his decision and thereupon all such

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proceedings shall be taken and directions obeyed and things done by the board as shall be so ordered and directed by the standing arbitrator. A.D. 1896.

**25.** So soon as the directors who are to constitute the new board shall have been elected as in this Act provided the functions of the receiver and manager appointed by the High Court on the twenty-seventh day of May one thousand eight hundred and ninety-six shall absolutely cease and determine and upon the application of the Company or of the receiver and manager the said High Court shall on such receiver passing his accounts in the usual way and paying to the Company any balance in his hands discharge such receiver and manager. Discharge of receiver and manager.

**26.** From and after the passing of this Act no actions suits executions attachments or other proceedings against the Company or affecting the Company's property shall be continued or commenced by any debenture stock holder during the period of five years after the passing of this Act unless with the leave of the court and during the continuance of such period no debenture stock holder shall have the right to apply for a receiver under the provisions of any Act affecting the Company in respect of any interest which may become due during such period in respect of any such debenture stock. Provided that the costs of any actions suits executions attachments or other proceedings against the Company or affecting the Company's property which shall be discontinued pursuant to this section shall be in the discretion of the court. Provided also that during the continuance of such period the operation of the statutes for the limitation of actions so far only as debenture stock holders are concerned shall be suspended and that every cause of action or suit and every right to issue execution or attachment or to take any other proceeding stayed by virtue of this Act during such period shall at the expiration of such period be in the same position in every respect as if such period had not intervened. Suspense and stay of actions &c.

**27.** From and after the passing of this Act the preference and ordinary stock holders shall have the exclusive right of appointing two auditors who shall be deemed to be the auditors of the Company notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 or in any Act relating to the Company to the contrary such auditors shall be professional accountants and need not be holders of stock of the Company. Appointment of auditors.

**28.** The Company may at a general meeting specially convened for that purpose at which holders of at least two thirds in value of the first debenture stock shall be present in person or by proxy with the sanction of a majority of three fourths of the votes of the Power to borrow money by creation of "A" debenture stock.

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A.D. 1896. debenture stock holders and other stock holders present at such meeting in person or by proxy borrow a sum or sums not exceeding in the whole thirty-five thousand pounds and may for that purpose create and issue debenture stock of the Company (herein-after referred to as " ' A ' debenture stock ") to rank in priority to the first debenture stock on such terms and conditions as to redemption or otherwise as the Company may by resolution determine. Provided that if a further working agreement is entered into between the Isle of Wight Central Railway Company and the Company for working the Company's undertaking as aforesaid then the aforesaid power to borrow shall be limited to the sum of twenty thousand pounds but failing such further working agreement being entered into or at any time hereafter being terminated then the Company shall have power to borrow the remaining fifteen thousand pounds for the purposes specified in subsection 3 of section 30 of this Act. Provided also that the rate of interest to be paid upon the said " A " debenture stock so created shall not exceed four per centum per annum.

As to  
priority of  
" A " debenture stock.

29. The " A " debenture stock created under the provisions of this Act and the interest thereof shall rank in priority to all the debenture stock of the Company and the interest thereof including the interest then in arrear.

Objects to  
which money  
raised by  
" A " debenture stock is  
to be applied.

30. The moneys raised by the issue of the " A " debenture stock shall be applied in or towards all or any of the following objects and purposes and to no other (that is to say) :—

- (1.) In payment or satisfaction of landowners claims including in such claims all interest and costs payable or agreed to be paid in respect thereof in executing any agreed accommodation works and in completing and perfecting any necessary conveyances to the Company ;
- (2.) In satisfying and paying all the costs charges and expenses of the Company and of the first debenture stock holders of and incidental to the preparing for obtaining and passing of this Act ;
- (3.) In purchasing or hiring as may be necessary or desirable engines waggons rolling stock and plant and in providing engines and carriage sheds and other necessary protection and the required shops and works for the reparation thereof ;
- (4.) In executing such works as shall from time to time be required by the Board of Trade ;
- (5.) In construction and improvement of passenger and goods accommodation.

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**31.** It shall be lawful for any trustees executors or persons having limited interests to take and hold "A." debenture stock created under the powers of this Act in place of any existing securities or in satisfaction of any debt or claim against the Company but not including claims of debenture stock holders for any interest due to them on the first or second debenture stocks. A.D. 1896.  
Enabling trustees to hold "A" debenture stock.

**32.** 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 railway or to execute any work or undertaking. Deposits for future Bills not to be paid out of capital.

**33.** Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by any Act relating to the Company. Provision as to general Railway Acts.

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