their arrangements cannot work a disintegration of the railway. This, I suppose, was so apparent that attention was not, I think, drawn to this during the argument.

The expression "entire assets" of the Company seems to indicate that what was intended to be charged was that which should be the assets of the Company at the time when the powers given to the debenture-holders for enforcing payment came to be exercised.

It would not be contended for the debenture-holders that they are confined to the "assets" existing at the time of the issue of the debentures; on the other hand, it could not for them be contended that the Company is, by the issue of debentures charged by the Act on its entire assets, prohibited from carrying on its business in ordinary course. The result seems to be that, though all the assets present and future are charged, the charge of the debenture-holders was by the Act intended to be a floating security. The charge actually created by the debentures as issued, and the Trust Deed, gave only an ordinary floating security. In Wheatley *v.* Silkstone Coal Company (54 L.J. Ch. 778; L.R. 29 Ch.D. 715) the debentures were expressed to be a "first charge" on the undertaking, &c., and effects, present and future. It was held that it was a general floating security operating as a first charge against the general creditors of the Company over the property of the Company, as such property should exist at the time at which the debentures should come to be put in force. North, J., in his judgment, says, "If those debentures are, as contended, a first charge upon everything mentioned in them they would cover everything that was then or at any time might become the property of the Company. They would include every penny the Company had at the bank, every piece of property they had at the time, every sum they subsequently received in the course of carrying on the business of the Company; and there would be a charge upon that property which would give the debenture-holder the right to have it applied in satisfying them, and would prevent anybody receiving any part of the money, knowing the circumstances under which it was received, without being liable to repay it if called upon to do so. It seems to me impossible to say that that can be the meaning of the parties. In fact, it has not been contended that the debentures are to receive this construction, but it seems to me, if the words "first charge" are to have the meaning assigned to them, it would necessarily go the length that I have indicated. Now, it seems to me here to be clear, by virtue of the words used—a charge upon the undertaking, the property, and effects of the Company, both present and future, including everything that they might acquire—what was intended was that the parties holding the debentures should have the right of coming forward when the money was payable to them and saying that they had a first charge upon the property belonging to the Company at that time in priority to any other charge to be set up in the same way against it; that is to say, if the money became payable, not by the period of the loan elapsing, but—I merely take this as an instance—by winding up (because the loan then became payable), in that case it was to be a first charge as against the general creditors of the Company. But I do not think that the words "first charge" can mean a charge that shall prevent any person whatever, under any circumstances, even by virtue of the proper and *bonâ fide* exercise by the Company of the power of carrying on the undertaking, from receiving in priority any part of the assets of the Company which he might otherwise be entitled to receive without question. That construction seems to me to be one which I am bound to put on the document, not only from the construction of the document itself—because it seems to me impossible to say that the undertaking was to be tied up and stopped at once—but also from the decisions that have been arrived at by the Courts with regard to similar instruments."

In that case the Company had, after the issue of the debentures, but while it was carrying on its business, given an equitable mortgage, and it was held that, notwithstanding the words of the debentures making the debentures a first charge, the equitable mortgage was entitled to priority. In the present case it is not a question of priority between a newly created charge and the debentures, but whether the charge given by the Act to the