# CHAPTER cv.

An Act for conferring further powers on the Eastbourne Seaford and Newhaven Railway Company and for other purposes. A.D. 1889.

[26th July 1889.]

WHEREAS by the Eastbourne Seaford and Newhaven Railway Act 1886 (in this Act called "the Act of 1886") the Eastbourne Seaford and Newhaven Railway Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining the railways by that Act authorised and for other the purposes of that Act and empowered to raise a share capital of two hundred thousand pounds and to borrow not exceeding sixty-six thousand six hundred pounds and the Company and the London Brighton and South Coast Railway Company (in the Act of 1886 and this Act called "the Brighton Company") were authorised to enter into and carry into effect working and other agreements and the Company were authorised for the purpose of obtaining access to the Eastbourne and Seaford stations respectively of the Brighton Company to run over and use portions of the railways of that company situate and lying between the commencement of the Railway No. 1 authorised by the Act of 1886 and the Eastbourne station including that station and between the termination of the Railway No. 2 authorised by the Act of 1886 and the Seaford station including that station and the works and conveniences connected with those portions of railways and stations respectively:

And whereas the Company have not exercised any of the powers of the Act of 1886 with respect to the taking of lands the construction of works or the raising of money:

And whereas it is expedient that the Company be empowered to make the substituted railway by this Act authorised and to abandon so much of their authorised railways as will thereby be rendered unnecessary:

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And whereas it is expedient that the Company and the Brighton Company be authorised to enter into working and other agreements as by this Act provided:

And whereas it is expedient that the respective periods limited by the Act of 1886 for the compulsory purchase of lands for and for the completion of so much of the railways thereby authorised as is not by this Act abandoned be extended as by this Act provided:

And whereas the estimated cost of the undertaking authorised by the Act of 1886 amounted to one hundred and eighty-three thousand nine hundred pounds and a sum of nine thousand two hundred and eighteen pounds one shilling Three pounds per Centum Consolidated Bank Annuities being equal in value to five per centum upon the amount of such estimated cost was transferred into the name of the Paymaster-General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for the Act of 1886 which sum is in that Act referred to as "the deposit fund":

And whereas the said sum of nine thousand two hundred and eighteen pounds one shilling Three pounds per Centum Consolidated Bank Annuities has in pursuance of the National Debt (Conversion) Act 1888 been exchanged for a sum of nine thousand two hundred and eighteen pounds one shilling Two and three quarters per Centum Consolidated Stock which sum is in this Act referred to as "the deposit fund of 1886":

And whereas the estimated cost of the undertaking of the Company as altered under the powers of this Act amounts to seventy-five thousand pounds:

And whereas by reason of such reduction in the estimated cost of the undertaking the whole of the share and loan capital authorised by the Act of 1886 will not be required and it is expedient that such share and loan capital be reduced as by this Act provided and that such provision as is in this Act contained be made with reference to the return of such portion (eight thousand and ninety-one pounds one shilling stock) of the deposit fund of 1886 as will remain after retaining out of that deposit fund the sum of one thousand one hundred and twenty-seven pounds stock being equal in value to five per centum on the amount of the estimated cost of so much of the railways authorised by the Act of 1886 as is not by this Act abandoned:

And whereas it is expedient that such other provisions be made with respect to the Company and their undertaking as are in this Act contained:

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And whereas plans and sections showing the lines and levels of the railway authorised by this Act and also books 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 Sussex and are herein-after respectively referred to as the deposited plans sections and books of reference:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:

Short title.

**1.** This Act may be cited as the Eastbourne Seaford and Newhaven Railway Act 1889.

Incorporation of Acts.

**2.** The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 the Railways Clauses Consolidation Act 1845 and Part I. (relating to construction of a railway) and Part II. (relating to extension of time) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 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 "the substituted railway" means the substituted railway by this Act authorised:

The expression "the authorised railway" means so much of the railways authorised by the Act of 1886 as is not by this Act abandoned:

The expressions "the railways" "the railway" and "the undertaking" mean respectively the authorised railway and the substituted railway:

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

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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 make substituted railway.

**4.** Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the substituted railway herein-after described with all proper stations sidings junctions roads approaches works and conveniences connected therewith or incidental thereto and may enter upon take and use such of the lands delineated upon the deposited plans and described in the deposited books of reference as may be required for those purposes The substituted railway herein-before referred to and authorised by this Act is wholly situate in the county of Sussex and is—

A substituted railway 5 miles 3 furlongs 4 chains in length commencing in the parish of Seaford by a junction with the Railway No. 2 authorised by the Act of 1886 in a field numbered 8 in the said parish on the plans deposited for the purposes of that Act with the clerk of the peace for the county of Sussex in the month of November 1885 at or near the point marked 4 miles on the plans of the said authorised Railway No. 2 and terminating in the parish of Wilmington by a junction with the London Brighton and South Coast Railway (Brighton and Hastings Branch) at or near a point 10 yards or thereabouts measured along the said railway in a north-westerly direction from the point where that railway crosses on the level the road leading from Milton Gate to Monken Pyn and which crossing is known as Milton Crossing.

Period for compulsory purchase of lands.

**5.** The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to take easements by agreement.

**6.** Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 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.

Restriction as to taking houses of the labouring class.

**7.**—(1.) The Company shall not except with the previous consent in writing of the Local Government Board under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been 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.

(2.) For the purposes of this section the expression "labouring class" means and 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 of such persons who may be residing with them.

For protection of the Brighton Company.

**8.** The provisions of section 31 of the Act of 1886 (the marginal note whereof is—For the protection of the London Brighton and South Coast Railway Company) sub-sections (*a*) (*b*) and (*c*) shall mutatis mutandis extend and apply to the junction of the substituted railway with the railway of the Brighton Company.

For protection of the Pevensey Level Commissioners.

**9.** The provisions of sections 32 33 34 35 and 36 the marginal notes whereof are respectively—

Provisions for protection of sewers &c. of Pevensey Level Commissioners:

For preventing obstructions in sewers &c. of Pevensey Level Commissioners:

Power to Pevensey Level Commissioners to divert sewers &c. under railway:

Providing against deficiencies in sewers rates &c.:

Saving rights of Pevensey Level Commissioners:

shall extend and apply to the substituted railway.

Company to exhibit lights.

**10.** The Company shall on each of the bridges over the River Cuckmere by this Act authorised exhibit and keep burning from sunset to sunrise such lights (if any) as the Corporation of Trinity House of Deptford Strond shall from time to time direct.

If the Company fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Deposit money not to be repaid

**11.** Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her

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except so far as railway opened.

present Majesty chapter twenty a sum of two thousand seven hundred and eighty pounds being five per centum upon the amount of the estimate in respect of the substituted railway has been deposited with the Paymaster-General for and on behalf of the Supreme Court of Judicature in England in respect of the application to Parliament for this Act which sum is referred to in this Act as the deposit fund of 1889 Be it enacted that notwithstanding anything contained in the said Act the deposit fund of 1889 shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them which person survivors or survivor are or is in this Act referred to as the depositors unless the Company shall previously to the expiration of the period limited by this Act for completion of the substituted railway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the substituted railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the substituted railway opened as aforesaid and the portion of the deposit fund of 1889 which bears to the whole of the deposit fund of 1889 the same proportion as the length of the substituted railway so opened bears to the entire length of the substituted railway the High Court of Justice in England shall on the application of the depositors order the portion of the deposit fund of 1889 specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

**12.** If the Company do not previously to the expiration of the period limited for the completion of the substituted railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund of 1889 or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the substituted railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be

distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the deposit fund of 1889 has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund of 1889 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 Court thinks fit to order on the application of the Solicitor to 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 Court 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 or transferred 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 Provided that until the deposit fund of 1889 has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

**13.** If the substituted railway 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 substituted railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Substituted railway to form part of Company's undertaking.

**14.** The substituted railway shall for the purposes of tolls and charges and for all other purposes whatsoever form part of the railways of the Company and the Company may demand and take in respect of the substituted railway a like amount of tolls fares rates and charges as the Company are authorised to demand and take by the Act of 1886 with respect to the authorised railway.

Agreements with Brighton Company.

**15.** The Company and the Brighton Company may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Railway and Canal Traffic Acts 1873 and 1888 from time to time enter into and carry into effect agreements with respect to the following purposes or any of them (that is to say) :—

The management use working and maintenance by the Brighton Company of the railway and works of the Company or any part or parts thereof respectively :

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The supply during the continuance and for the purposes of any agreement for the working or use of the railway by the Brighton Company of any rolling or working stock and of officers and servants necessary for the conduct of the traffic on such railway:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange accommodation conveyance and delivery of the traffic coming from or destined for the respective undertakings of the contracting companies:

The fixing collection and division between the contracting companies of the tolls rates charges receipts and revenues levied taken or arising from such traffic:

The payments allowances rebates and drawbacks to be paid made or allowed by either of the contracting companies to the other of them for or on account of any of the matters to which the respective agreement relates.

Tolls on traffic conveyed partly on railway of Company and partly on railway of Brighton Company.

**16.** Where under the provisions of this Act or of any agreement made in pursuance of this Act traffic is conveyed partly on the railway of the Company and partly on the railway of the Brighton Company the railway of the Company and the railway of the Brighton Company shall for the purpose of short distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway of the Company and partly on the railway of the Brighton Company for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the railway of the Company and partly on the railway of the Brighton Company.

Extending period for compulsory purchase of lands for authorised railway.

**17.** The powers of the Company for the compulsory purchase of lands for the purposes of the Act of 1886 as altered by this Act are by this Act extended and may be exercised within but shall not be exercised after the expiration of two years from the twenty-fifth day of June one thousand eight hundred and eighty-nine.

Extending period for completion of

**18.** The period limited by the Act of 1886 for the completion of the authorised railway is by this Act extended and the authorised

railway may and shall be completed within three years from the twenty-fifth day of June one thousand eight hundred and ninety-one and on the expiration of that period the powers by the Act of 1886 and this Act granted to the Company for executing the authorised railway or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed and the Act of 1886 shall be read and have effect as if the period by this Act limited for the completion of the authorised railway had been the period by that Act limited. A.D. 1889. authorised railway.

**19.** Sub-section 1 of section 38 of the Act of 1886 the marginal note whereof is— Provisions of section 38 of Act of 1886 as amended by this Act to continue to apply.

Restriction as to houses of labouring class

is hereby repealed and in lieu thereof it is enacted as follows :—

(1.) The Company shall not under the powers of the Act of 1886 as extended by this Act purchase or acquire in any city borough or urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December next before the passing of the Act of 1886 were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until the Company—

(A.) Shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December aforesaid or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case; and

(B.) Shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

The said section 38 as so amended shall continue in full force and shall apply to the Company in the exercise of the powers of the Act of 1886 as extended by this Act.

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Company to abandon portions of authorised lines.

**20.** The Company shall abandon the construction of the following portions of their railways authorised by the Act of 1886 (that is to say) :—

(*a.*) Railway Number 1 :

(*b.*) Railway Number 2 from the commencement thereof to the point of junction therewith of the substituted railway :

And on the passing of this Act the Company shall except only as is by this Act expressly provided be absolutely freed and discharged from all obligations with respect to the making and maintaining thereof.

Compensation for damage to land by entry &c. for purposes of railway abandoned.

**21.** The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1886.

Compensation to be made in respect of portions of railways abandoned.

**22.** Where before the passing of this Act any contract has been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this Act the Company shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act 1845 as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Reduction of share capital of Company under Act of 1886.

**23.** Section 6 (capital and number and amount of shares) of the Act of 1886 shall be read and have effect as if ninety thousand pounds in nine thousand shares were therein substituted for two hundred thousand pounds in twenty thousand shares.

Power to borrow.

**24.** Section 18 (power to borrow) of the Act of 1886 is hereby repealed and in lieu thereof it is enacted as follows :—

The Company may from time to time borrow on mortgage of the undertaking any sums not exceeding in the whole thirty thousand pounds but no part thereof shall be borrowed until the whole capital of ninety thousand pounds is issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that the whole of such capital has been issued and accepted and that one half thereof has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was 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 shall be sufficient evidence thereof.

Repayment of portion of deposit made under Act of 1886.

**25.** Subject to the provisions of section 40 of the Act of 1886 with respect to compensation to landowners and other persons injured and for the protection of creditors the High Court of Justice in England may and shall at any time after the passing of this Act on the application of the depositors referred to in section 39 of the Act of 1886 order that the sum of eight thousand and ninety-one pounds one shilling Two and three-quarters per Cent. Consolidated Stock portion of the deposit fund of 1886 may be paid or transferred to the said depositors or to such person or persons as they may appoint in that behalf and upon such order being made the said sum of eight thousand and ninety-one pounds one shilling Two and three-quarters per Cent. Consolidated Stock and the interest or dividends thereon shall be paid or transferred to the said depositors or to such person or persons accordingly.

Saving rights of Crown under Crown Lands Act.

**26.** Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf cf Her Majesty Her heirs or successors.

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Saving rights of the Crown in the foreshore.

**27.** Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may 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.

Saving rights of Postmaster-General under Telegraph Act 1878.

**28.** Nothing in any agreement made under the authority of this Act or the Act of 1886 shall affect the rights of the Postmaster-General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railways and works comprised in the undertaking of the Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster-General shall after the making of any such agreement be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Company is owned leased or worked by the Brighton Company and as freely and fully in all respects as he was entitled to do before the making of any such agreement.

Power to apply moneys.

**29.** The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they may raise under the powers of the Act of 1886 as altered by this Act.

Interest not to be paid on calls paid up.

**30.** No interest or dividend shall be paid out of any share or loan capital which the Company are by the Act of 1886 as altered by this Act or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall 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.

**31.** The Company shall not out of any money by the Act of 1886 as altered 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 railway or to execute any other work or undertaking.

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Provision as to general Railway Acts.

**32.** Nothing in this Act contained shall exempt any company mentioned in this Act or the railways of any such company 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 to be taken by the respective companies.

Costs of Act.

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

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