CHAPTER xxxviii.

An Act to authorise the Elham Valley Light Railway Company to improve their authorised Railway and for other purposes. [25th June 1885.]

A.D. 1885

WHEREAS the Elham Valley Light Railway Company (herein-after called "the Company") were incorporated by the Elham Valley Light Railway Act 1881 (herein-after called "the Act of 1881") for the purpose of constructing a railway from Canterbury to Cheriton in the county of Kent:

And whereas it has been found that the levels of a portion of the said railway between the points herein-after described can be beneficially altered and improved and it is therefore expedient that the Company be empowered to alter the levels of the said authorised railway and to acquire the lands necessary for that purpose:

And whereas the Company have not under the powers of the Act of 1881 created or issued any debenture stock or granted any mortgage:

And whereas it is expedient that the Company be authorised to raise additional capital for the purposes of their undertaking and that the other provisions contained in this Act be made:

And whereas plans and sections showing the lines and levels of the proposed alteration of levels and works and the lands in or through which the same are intended to be made and a book of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the clerk of the peace for the county of Kent and are herein-after referred to as the deposited plans sections and book 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

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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 Elham Valley Railway Act 1885.

Incorporation of general Acts.

2. The under-mentioned enactments are except where expressly varied by this Act incorporated with and form part of this Act (namely):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883:

The Railways Clauses Consolidation Act 1845:

Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863:

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for the non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices and the provision to be made for affording access to the special Act by all parties interested;

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

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 railway" means the railway authorised by this Act 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 alter levels of existing 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 deviation or alteration of levels herein-after described with all proper works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for the bridge in the parish of Newington herein-after mentioned. The alteration of levels herein-before referred to and authorised by this Act is situate wholly in the county of Kent and is as follows (that is to say) :—

A deviation or alteration of the levels of the Company's said authorised railway in the parish of Lyminge between a point marked and measured on the said deposited plans and sections referred to in the Act of 1881 13 miles 45½ chains or thereabouts from the commencement of the said railway and the termination of the said authorised railway in the parish of Cheriton in the county of Kent.

Height and span of bridge.

5. The Company may make the arch of the bridge for carrying the railway authorised by the Act of 1881 over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned in connexion therewith (that is to say) :

Parish.	Description of Road.	Height.	Span.
Newington.	Public.	14 feet.	25 feet.

Restriction on taking houses of labouring class.

6. (1.) The Company shall not under the powers of this Act or of the Act of 1881 without the sanction of the Local Government Board acquire in any urban sanitary district or in any parish or part of a parish not within any urban sanitary district ten or more houses which after the passing of this Act have been or on the 15th 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.

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Power to apply corporate funds to purposes of Act.

7. The Company may apply to the purposes of this Act to which capital is properly applicable any money which they have raised or which they have power to raise by virtue of any Act relating to the Company and which may not be required for the purpose to which it is by any such Act made specially applicable.

Power to raise additional capital.

8. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 and of this Act from time to time raise any additional capital not exceeding in the whole fifteen thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share has been paid in respect thereof.

Shares not to be issued until one fifth paid.

9. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Limit of amount and number of calls.

10. The amount of any one call to be made on any share created under this Act shall not exceed one fourth of the amount of such share and there shall be an interval of two months at least between every two successive calls and not more than three fourths of the amount of each share shall be called up in any one year.

Receipt in case of persons not sui juris.

11. If any money is payable to a holder of shares or stock created under this Act being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow on mortgage.

12. The Company may in respect of the additional capital of fifteen thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole five thousand pounds but no part thereof shall be borrowed until the shares for so much of the said additional capital as is to be raised by means of shares are 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 shares for the whole of such capital have 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 until stock for one half of so much of the said additional

capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also if the said capital is raised by shares that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

New shares or stock to be subject to same incidents as existing shares or stock.

13. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

Existing mortgages to have priority.

14. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act shall during the continuance of such mortgages and subject to the provisions of the Acts under which the same were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Provisions as to appointment of receiver repealed.

15. Section 16 of the Act of 1881 for appointment of a receiver is by this Act repealed but without prejudice to any appointment heretofore made or proceedings now pending under the provisions of that section or any of them.

For appointment of a receiver.

16. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Debenture stock.

17. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued

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by the Company under the Act of 1881 or this Act or any subsequent Act shall subject to the provisions of this or any subsequent Act rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company under the Act of 1881 or this or any subsequent Act and shall have priority over all principal moneys secured by such mortgages.

Application of loan or share capital under Act.

18. All money raised under this Act whether by shares stock mortgages or debenture stock shall be applied for purposes authorised by this Act or by the Act of 1881 being in every case purposes to which capital is properly applicable.

Power to take easements &c. by agreement.

19. 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.

Period for compulsory purchase of lands.

20. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of two years from the passing of this Act.

Period for completion of works.

21. If the alteration of levels is not completed within three 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 alteration of levels or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Classification table to be open to inspection and copies to be sold.

22. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling. The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the rail-

Terminal charges (if any) to be specified on application.

way shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified. If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Penalty.

Interest on calls not to be paid out of capital.

23. No interest or dividend shall be paid out of any share or loan capital which the Company are by this 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.

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

Provisions as to general Railway Acts.

25. Nothing in this Act shall exempt the Company or their 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 authorised maximum rates of fares and charges or of the rates for smal parcels.

Costs of Act.

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.

LONDON: Printed by Eyre and Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1885.