CHAPTER lx.

An Act to confer further powers on the London Brighton and South Coast Railway Company to make provision with respect to the construction of a subway at Norwood Junction in the county borough of Croydon and for other purposes. [18th August 1911.] A.D. 1911.

WHEREAS it is expedient that powers should be conferred upon the London Brighton and South Coast Railway Company (who are hereinafter referred to as "the Company") with reference to the construction of the works in this Act described:

And whereas it is expedient that powers as in this Act contained should be conferred upon the Company and upon the mayor aldermen and burgesses of the county borough of Croydon in relation to the subway and the works connected therewith at Norwood Junction Station in the county borough of Croydon by this Act authorised:

And whereas the period limited by the London Brighton and South Coast Railway Act 1908 for the completion of the railway in the county of Surrey described in and authorised by the London Brighton and South Coast Railway Act 1901 will expire on the 26th day of July 1911 and it is expedient that the said period should be extended: 8 Edw. 7. c. lxxxiii. 1 Edw. 7. c. cxi.

And whereas the period limited by the said Act of 1908 for the completion of the railways in the county of Sussex and the widenings of railways in the same county described in and authorised by the London Brighton and South Coast Railway Act 1903 will expire on the 21st day of July 1911 and it is expedient that the said period should be extended: 3 Edw. 7. c. cxx.

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And whereas it is expedient that the Company should be empowered to raise additional capital for the purposes of this Act and for the general purposes of their undertaking:

And whereas it is expedient that the other provisions of this Act should be made:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and the lands required or which may be taken for the purposes thereof and a book of reference to such 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 respective clerks of the peace for the counties of Surrey and Sussex and the said plans sections and book of reference are in this Act referred to as the deposited plans sections and book of reference respectively:

And whereas the objects aforesaid 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 King'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 for all purposes as the London Brighton and South Coast Railway Act 1911.

Incorporation of general Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation Act 1845 and Part II. (relating to extension of time) of the Railways Clauses Act 1863 are subject to the provisions of and except where varied by this Act incorporated with and form part of this Act.

Applying certain provisions of Companies Clauses Acts.

3. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to--

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 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 the borrowed money into capital;

The consolidation of the 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;

and Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock as amended by subsequent Acts shall subject to the provisions of this Act extend and apply to the capital and money hereby authorised to be raised by shares or stock or borrowing and the proprietors thereof.

Interpretation.

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

Power to construct works.

5. 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 works hereinafter described and may exercise the powers hereinafter mentioned and may for the purposes aforesaid make such alterations in the levels of the streets roads and footpaths affected thereby as are shown upon the deposited plans and sections and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of this section.

The works hereinbefore referred to are as follows:—

A subway (Work No. 1) under the Company's railway at Norwood Junction Station with approaches thereto wholly in the parish and county borough of Croydon in the county of Surrey commencing in Station Road opposite the junction of Cargreen Road with Station Road and terminating on the southern side of Clifford

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Road near the north-eastern corner of the Company's booking office at the said station:

An approach (Work No. 2) in the same parish commencing opposite the passage-way leading to Carmichael Road and terminating by a junction with Work No. 1 at a point thereon 1½ chains or thereabouts southward of the said north-east corner of the said booking office:

And the Company may—

Construct a footbridge with inclined approaches in the parish and borough of Bexhill in the county of Sussex across the Hastings Railway of the Company at a point seventy-seven yards or thereabouts westward of the Braggs Lane Crossing and as from the completion of the said footbridge all rights of crossing the said railway on the level at the said Braggs Lane Crossing shall be extinguished:

Provided that the Company shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Power to deviate in construction of works.

6. The Company in constructing the several works authorised by this Act may deviate from the centre lines shown on the deposited plans to the extent of the limits of deviation marked on such plans respectively and may deviate from the levels shown on the deposited sections to any extent not exceeding three feet.

Power to alter steps areas pipes &c.

7. The Company within the limits of deviation defined on the deposited plans may for the purposes of and in connection with the Works Nos. 1 and 2 by this Act authorised raise sink or otherwise alter or cause to be altered the position of any of the steps cellars vaults areas railings or other property so as the same be done with as little delay and inconvenience as the circumstances of the case will admit and the Company shall make reasonable compensation to any person who suffers damage by any such alteration:

Provided that the Company shall not under the powers of this section raise sink or otherwise alter or cause to be altered the position of any pipe work or apparatus belonging to or used by the Postmaster General except in accordance with and subject to the provisions of the Telegraph Act 1878.

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Protection of gas and water mains of local authorities.

8. The provisions of sections 18 to 23 of the Railways Clauses Consolidation Act 1845 shall for the purposes of this Act extend and apply to the water and gas mains pipes and apparatus of any local authority and shall be construed as if "local authority" were mentioned in those sections in addition to "company or society" Provided that any penalties recovered under section 23 shall be appropriated to that fund of the local authority to which their revenues in respect of water or gas (as the case may be) are appropriated.

Underpinning of houses near works.

9. And whereas in order to avoid in the execution and maintenance of Works Nos. 1 and 2 by this Act authorised injury to the houses and buildings within one hundred feet of those works it may be necessary to underpin or otherwise strengthen the same Therefore the Company at their own costs and charges may and if required by the owners or lessees of any such house or building shall subject as hereinafter provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say) :—

(1) At least ten days' notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners or lessees of the house or building so intended or so required to be underpinned or otherwise strengthened :

(2) Each such notice if given by the Company shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act 1845 and if given by the owners or lessees of the premises to be underpinned or strengthened shall be sent to the principal office of the Company :

(3) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days after the giving of such notice give a counter-notice in writing that he or they as the case may be disputes the necessity of such underpinning or strengthening the question of the necessity shall be referred to the arbitration of an engineer to be agreed upon or in case of difference appointed at the instance of either party by the Board of Trade and the Arbitration Act 1889 shall apply to the reference :

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(4) The arbitrator shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and in the event of his deciding that such underpinning or strengthening is necessary he may and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building:

(5) The Company shall be liable to compensate the owners lessees and occupiers of every such house or building for any inconvenience loss or damage which may result to them by reason of the exercise of the powers granted by this enactment:

(6) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Company such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Company then and in every such case unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee the Company shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof:

(7) Nothing in this enactment contained nor any dealing with any property in pursuance of this enactment shall relieve the Company from the liability to compensate under section 68 of the Lands Clauses Consolidation Act 1845 or under any other Act:

(8) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions of the Lands Clauses Acts:

(9) Nothing in this section shall repeal or affect the application of section 92 of the Lands Clauses Consolidation Act 1845.

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Persons under disability may grant easements &c.

10. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) 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.

11. The powers 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.

Provisions as to subway at Norwood Junction.

12.—(1) Notwithstanding anything contained in this Act the Company shall not for a period of three months from the passing of this Act exercise any of the powers of this Act with respect to the construction of the subway and approaches at Norwood Junction authorised by this Act and if within the said period of three months the mayor aldermen and burgesses of the county borough of Croydon (hereinafter called "the corporation") give notice in writing of their desire to exercise the said powers the corporation may execute the work of constructing the said subway and approaches and for the purpose of such construction the corporation shall have and may exercise all the powers of the Company in that behalf in this Act contained.

(2) The Company shall convey to the corporation an easement or right of constructing and maintaining the said subway in and beneath the land of the Company.

(3) The corporation shall within the limits of deviation shown upon the deposited plans construct the said subway and approaches in all respects in accordance with plans and sections to be approved by the engineer for the time being of the Company (in this section referred to as "the engineer") and shall not without the previous assent in writing of the engineer in any way depart from the plans and sections so approved.

(4) The corporation shall from time to time and at all times maintain and keep the said subway and approaches and all works in connection therewith in good and proper repair and condition to the reasonable satisfaction of the engineer and properly cleansed and lighted and shall if and when it becomes necessary in the

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opinion of the engineer so to do renew strengthen and protect the same.

(5) If in connection with any widening or alteration of or addition to the railway or works of the Company or with the full and efficient working thereof as now existing or as from time to time altered or added to or otherwise howsoever any strengthening covering protective or other work to the said subway and approaches shall be considered by the engineer to be necessary or shall be desired by the corporation the corporation shall from time to time carry out all or any such work.

(6) The corporation shall carry out all work which they are permitted or liable to do hereunder at their own risk and expense and in such manner as may be approved by and under the supervision and to the satisfaction of the engineer and at times to be previously fixed or agreed by him.

(7) For the purpose of carrying out any work which the corporation are permitted or liable to do hereunder or of inspecting the subway the corporation shall be at liberty after seven days' previous notice in writing to the Company (except in cases of emergency when any reasonable notice shall be sufficient) to enter upon the land and premises of the Company adjoining or near the subway to such extent as may be reasonably necessary but not so as to in any way hinder or interfere with the traffic on the railway or the use of the station and works of the Company.

(8) The corporation shall from time to time execute all work which the corporation are permitted or liable to do hereunder with the utmost possible despatch and when and so soon as the same shall have been commenced shall proceed with the work continuously and in such a manner as not to cause any injury annoyance or disturbance to the Company or their property traffic or business.

(9) The Company from time to time during the carrying out of any work by the corporation under this section may provide watchmen to see that such work does not damage the railway of the Company or interfere with the traffic thereon but the provision of such watchmen shall not be deemed to relieve the corporation from any of their liability to the Company under this section.

(10) In case of any default by the corporation in carrying out any work which the corporation are permitted or liable to do hereunder the Company shall be at liberty (without prejudice to the indemnity herein contained or to any right or remedy

hereunder or to the liability of the corporation hereunder or otherwise) to themselves carry out the same at the risk and expense of the corporation.

(11) The corporation shall from time to time pay to the Company on demand the expenses (as certified by the engineer) incurred by the Company in lighting watching and supervising any work carried out by the corporation hereunder or incurred by the Company in carrying out any work as herein provided and shall also from time to time pay to the Company any additional expense which the Company may incur in effecting any widening of or alteration or addition to the railway or works of the Company by reason of the existence of the said subway and approaches.

(12) The Company shall not be liable for any damage or injury that may be caused arise or be done to the said subway or for any consequential loss arising therefrom or occasioned thereby howsoever any such damage or injury may be caused arise or be done.

(13) The corporation shall at all times bear pay and discharge all claims demands losses and payments that may be made sustained or become payable by the Company by reason or in consequence of any damage loss interruption nuisance disturbance or injury in any way caused or done by or resulting from the construction maintenance repair renewal non-maintenance non-repair or alteration of the subway or the existence or user thereof or the exercise or non-exercise by the corporation of any of the provisions of this section and the corporation from time to time and at all times shall indemnify and save harmless the Company from and against the same and all and any claims and demands in respect of any of the matters aforesaid and all actions and costs in relation thereto.

(14) Any expenses incurred by the corporation under the provisions of this section shall be deemed to be expenses incurred by them under and for the purposes of the Public Health Act 1875.

Confirming purchase of lands.

13. The Company may hold and use for the general purposes of their undertaking the lands which have already been acquired by them and which are delineated on plans signed in duplicate by the Right Honourable the Lord Balfour of Burleigh the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred of which plans one copy has

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been deposited in the Private Bill Office of the House of Commons and one copy in the Office of the Clerk of the Parliaments in the House of Lords and the expenditure by the Company in connection with the acquisition of the said lands is hereby sanctioned and confirmed and the said lands shall be deemed to be lands acquired under the powers of this Act.

The lands hereinbefore referred to are as follows:—

(1) Lands in the parish and metropolitan borough of Camberwell in the county of London lying in the angle formed by the junction of the Company's South London line with their Peckham and Sutton line near Peckham Rye Junction:

(2) Lands in the parish and borough of Bexhill in the county of Sussex on both sides of and adjoining the Company's Hastings Railway near Braggs Lane:

(3) Lands in the parish of Lancing in the county of Sussex situate on both sides of and adjoining the Company's Brighton and Portsmouth Railway.

Power to retain lease or dispose of lands.

14. And whereas lands have from time to time been purchased or acquired by the Company or by the Company jointly with another company adjoining or near to railways or stations belonging to the Company or belonging to the Company and such other company jointly but such lands are not immediately required for the purposes of the undertaking of the Company or for the purposes of the Company and such other company jointly as the case may be and it is expedient that further powers should be conferred upon the Company and also upon the Company and such other company with respect to such lands Therefore notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 or in any Act relating to the Company or to the Company and such other company with which that Act is incorporated the Company or the Company and such other company shall not be required to sell or dispose of any such lands but may retain hold or use or may lease or otherwise dispose of the same.

Extending time for completion of railways &c. authorised by Company's Acts of 1901 and 1903.

15. The periods limited by the London Brighton and South Coast Railway Act 1908 for the completion of—

(1) The railway in the parish and urban district of Sutton in the county of Surrey described in and authorised by section 6 of the London Brighton and South Coast Railway Act 1901; and

(2) Railways Nos. 3 4 5 and 6 in the county of Sussex and Widenings Nos. 2 3 4 5 and 6 in the same county described in and authorised by section 6 of the London Brighton and South Coast Railway Act 1903;

are hereby extended until the twenty-sixth day of July one thousand nine hundred and fourteen and section 20 of the said Act of 1901 and section 45 of the said Act of 1903 shall respectively be read and construed accordingly.

Company may apply their funds and raise additional capital.

16. The Company may apply towards the construction of the works by this Act authorised and other purposes of this Act any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised and the Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise for the same purposes and for the general purposes of their undertaking any additional capital not exceeding in the whole one million five hundred 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 which shares or stock shall form part of the general capital of the Company.

Shares not to vest until one-fifth part paid.

17. The Company shall not issue any share created under this Act under the nominal value of ten pounds nor shall any share or stock created under this Act vest in the person accepting the same unless and until a sum not being less than one-fifth of the amount of such share or the whole of such stock shall have been paid in respect thereof.

Qualification of new shares or stock.

18. Except as by or under the powers of this Act otherwise provided the new shares or stock issued under the powers of this Act shall in proportion to the aggregate amount thereof from time to time held by the same person at the same time and paid up entitle the respective holders thereof to the same dividends and profits and confer on them the like qualifications and the like right of voting as the like amount of shares or stock of the Company of the same class or description.

Power to borrow.

19. The Company may in respect of the additional capital of one million five hundred thousand pounds which they are by this Act authorised to raise from time to time borrow on

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mortgage of their undertaking any sum not exceeding in the whole five hundred thousand pounds and of that sum they may from time to time borrow any sum not exceeding in the whole one hundred thousand pounds in respect of each three hundred thousand pounds of the said additional capital but no part of any such sum of one hundred thousand pounds shall be borrowed until shares for so much of the portion of capital in respect of which it is to be borrowed as is to be raised by means of shares are issued and accepted and one half of such portion of capital is paid up and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of 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 portion of 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 such portion 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 and to the extent aforesaid paid up bonâ fide and are or is held by the persons to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons 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 certificate shall be sufficient evidence thereof.

Debenture stock.

20. 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 at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Existing mortgages to have priority.

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

Appointment of receiver.

22. All enactments in force under any Act relating to the Company with respect to the appointment of a receiver by mortgagees of the undertaking of the Company are hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such enactment.

The mortgagees of the undertaking of the Company 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 ten thousand pounds in the whole.

Application of moneys.

23. All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied to the purposes of this Act and to the general purposes of the Company being in each case purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

24. If any money is payable to a shareholder or mortgagee or debenture stock holder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Interest on calls not to be paid out of capital.

25. 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.

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Deposits for future Bills not to be paid out of capital.

26. 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.

Provision as to general Railway Acts.

27. Nothing in this Act contained shall exempt the Company or the railways of the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the commencement of this Act 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.

Costs of Act.

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

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