CHAPTER clxxxi.

An Act to confer upon the South-eastern Railway Company further powers with respect to their own Undertaking and the Undertakings of certain other Companies; and for other purposes. [2d August 1875.]

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WHEREAS it is expedient that the following powers should be conferred upon the South-eastern Railway Company (who are in this Act referred to as "the Company"); videlicet,

(1.) To divert a footpath in the parish of Saltwood, in the county of Kent, now crossed by Railway No. 4 authorised by "The South-eastern Railway (Extension to Cranbrook, Hythe, &c.) Act, 1864," (in this Act called the Act of 1864,) also certain footpaths in Greenwich in connexion with Railway No. 1 authorised by "The South-eastern Railway Act, 1872" (in this Act called the Act of 1872);

(2.) To acquire certain lands in the parishes of Folkestone and Croydon, but so far as the lands in Folkestone are concerned only by agreement:

And whereas plans and sections showing the lines and levels of the proposed altered footpaths, and the lands in or through which the same are intended to be made, and plans of the lands which the Company are by this Act empowered to acquire, and books of reference to those respective 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 Kent and Surrey, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas it is expedient that the time limited for the completion of so much of the railway authorised by "The South-eastern Railway Act, 1871," (in this Act called the Act of 1871,) as

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the Company have now power to make, and which period was extended by "The South-eastern Railway Act, 1873," (in this Act called the Act of 1873,) should be further extended:

And whereas it is also expedient to extend the time limited by "The South-eastern Railway Act, 1874," (in this Act called the Act of 1874,) for the making of Railway No. 2 authorised by the Act of 1872:

And whereas by "The Charing Cross Railway Act, 1863," (section forty-two,) the Company are empowered to subscribe and have accordingly subscribed sixty-five thousand pounds towards the capital of the Charing Cross Hotel Company, Limited, and it is expedient that the Company should have power to increase such subscription:

And whereas by "The South-eastern and Reading, Guildford, and Reigate Railways Amalgamation Act, 1852," the undertaking of the Reading, Guildford, and Reigate Railway Company (which Company was dissolved by that Act) was merged in and amalgamated with the undertaking of the South-eastern Railway Company in consideration of annuities, amounting together to a perpetual annuity of forty-one thousand pounds, payable by the Company to the shareholders of the other Company:

And whereas it is expedient that the Company should have power to redeem and extinguish such annuities, and to create and issue debenture stock in exchange for those annuities:

And whereas by "The Rye and Denge-ness Railway and Pier Act, 1873," the Rye and Denge-ness Railway and Pier Company (in this Act called the Denge-ness Company) were incorporated, and authorised to make the railway, pier, and other works described in that Act, and such railway when made would be an extension of the South-eastern Railway:

And whereas the Denge-ness Company have as yet not proceeded with the construction of any part of their authorised undertaking, or subscribed any part of the capital by the said Act authorised, and it is expedient that the powers conferred upon them should be transferred to and exercised by the Company, and that the Rye and Denge-ness Railway and Pier Company should be dissolved:

And whereas with respect to the undertaking of the said Rye and Denge-ness Railway and Pier Company a sum of money has been deposited with the Court of Chancery to secure the completion of the said railway, and it is expedient that the said sum of money be repaid, inasmuch as the Company are by this Act made liable to a daily penalty in the event of their failing to complete and open the said railway within the time limited for its completion:

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And whereas it is expedient that the Company be authorised to raise further capital, and that such further powers be granted as are herein-after mentioned:

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; (that is to say,)

Short title.

1. This Act may be cited as "The South-eastern Railway Act, 1875."

Provisions of certain general Acts incorporated.

2. The following Acts and parts of Acts (so far as they are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act; namely,

Part II. (relating to extension of time) of "The Railways Clauses Act, 1863:"

"The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:"

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 nonpayment of calls;

The consolidation of shares into stock;

The remedies of creditors of the Company against the shareholders;

The borrowing of money;

The conversion of borrowed money into capital;

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:

Also Part I. (relating to the 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 of terms.

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 some-

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thing in the subject or context repugnant to such construction; 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 for the purposes of this Act 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 divert certain footpaths.

4. Subject to the provisions of this Act, the Company may divert the footpath in the parish of Saltwood, and the footpaths in the parish of Saint Alphage, Greenwich, in the lines shown upon the deposited plans, and the Company 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 making the said diversions, and when and so soon as the said diversions are made and opened for public use, all rights of ways in, over, or affecting the portions of footpath in the stead of which the new footpaths are made shall cease and be extinguished, and such portions of footpath shall vest in the Company for the purposes of their undertakings, and the new footpaths shall be repairable by the same authorities or persons and by the same means by whom the remaining portions of the same footpaths respectively are repairable.

Power to acquire additional land for general purposes.

5. Subject to the provisions of this Act, the Company, in addition to the other lands which they are by this Act authorised to acquire, may enter upon, take, and use, and appropriate to the purposes of their undertaking, all or any of the lands and buildings following, delineated on the deposited plans and described in the deposited books of reference relating thereto; (that is to say,)

Land in the parish of Croydon, in the county of Surrey, comprising an area of three quarters of an acre or thereabouts, bounded on the east by a private road leading to the Addiscombe Road Station of the South-eastern Railway Company (Mid-Kent Branch), on the north by other land belonging or claimed to belong to the Company, on the west by a new road known as Hastings Road, and on the south by a proposed new road at the rear of some houses in the Lower Addiscombe Road.

Powers for compulsory purchases limited.

6. The powers of the Company for the compulsory purchase of lands authorised by this Act to be taken shall not be exercised after the expiration of three years from the passing of this Act.

Power by agreement to purchase lands of

7. The Company may enter into and carry into effect agreements with the Right Honourable the Earl of Radnor with respect to the purchase by the Company, for the purposes of their under-

takings, of any of the lands of the said Earl at Folkestone adjoining the harbour which are within the limits of deviation shown upon the deposited plans.

Lord Radnor at Folkestone.

8. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Notice to be given of taking houses of labouring classes.

9. Before displacing any persons belonging to the labouring classes who may for the time being be the occupiers of any house or part of any house which the Company are by this Act authorised to acquire, the Company shall (unless the Company and such persons otherwise agree) procure sufficient accommodation elsewhere for such persons: Provided always, that if any question shall arise as to the sufficiency of such accommodation the same shall be determined by a justice, and the Company may for the purpose of procuring such accommodation appropriate any lands for the time being belonging to them or which they have power to acquire, and may purchase by agreement such further lands as may be necessary for such purpose, and may on such lands erect labouring-class dwellings, and may apply for the purposes of this section, or any of them, any moneys they may have already raised or are authorised to raise.

Company to procure accommodation for persons of the labouring class to be displaced.

10. 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 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.

Power to take easements, &c. by agreement.

11. The period limited by the Act of 1871, as extended by the Act of 1873, for the completion of the railway authorised by the Act of 1871, shall, as regards so much of that railway as was not by the Act of 1872 required to be abandoned, be and is further

Extending time for completion of certain portions of railway.

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extended until the first day of August one thousand eight hundred and seventy-seven.

Extending time for making Railway No. 2 authorised by Act of 1872.

12. The time limited by the Act of 1872, and extended by the Act of 1874, for constructing and completing the Railway No. 2 authorised by the Act of 1872, shall be and is hereby further extended until the thirty-first day of December one thousand eight hundred and seventy-six, and sections twenty-three and twenty-four of the Act of 1872 are hereby repealed.

Transfer to Company of the powers of the Rye and Denge-ness Railway and Pier Company.

13. From and after the passing of this Act all the lands acquired or contracted for by the Denge-ness Company, and all real and personal property belonging to them, and all the powers, rights, privileges, and authorities granted to them by their before-mentioned Act, shall be and are hereby transferred to and vested in the Company, and the Company may exercise all the powers, and shall be subject to the duties and liabilities conferred or imposed on or incurred by the Denge-ness Company with respect to the undertaking of that Company, and the Denge-ness Company shall forthwith proceed to wind up its affairs, and shall thereupon and by virtue of this Act be dissolved: Provided always, that nothing in this enactment contained shall render the Company liable for more than one half of the agreed amount of the costs, charges, and expenses of obtaining and passing "The Rye and Denge-ness Railway and Pier Act, 1873."

Penalty imposed unless railways opened within the respective times limited by this Act.

14. If the Company fail within the respective periods limited by this Act to complete the railways for the completion of which the time is by this Act extended, or if the Company fail within the period limited by "The Rye and Denge-ness Railway and Pier Act, 1873," to complete the railway by that Act authorised, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway in respect of which such default has been made is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railways or railway in respect of which the penalty has been incurred, and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of "The Railway and Canal Traffic Act, 1854," and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in

that section to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General on behalf of the Court of Chancery in England in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as is herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the railway by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of moneys recovered as penalties.

15. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway, or any portion of the railway, in respect of which the penalty has been incurred, or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of such railway, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in England may seem fit, and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, 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 of Chancery in England thinks fit to order on the application of the Solicitor of 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.

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Release in certain event of moneys deposited in Court of Chancery by the Denge-ness Company.

16. The Court of Chancery shall, upon the production of a copy of this Act, and upon the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the Act of the ninth year of Her present Majesty, chapter twenty, or the survivor or survivors of such person, repay to them or him the sum which has been deposited in the Bank of England with respect to the Rye and Denge-ness Railway, and any interest or dividends which may have accrued upon the sums so deposited.

Power to Company to subscribe further moneys to Charing Cross Hotel capital.

17. The Company may take and hold, by themselves or their nominees, shares in the capital of the Charing Cross Hotel Company (Limited), and in addition to what they have subscribed under the powers of "The Charing Cross Railway Act, 1863," any sum not exceeding in the whole sixty thousand pounds.

Power to agree with Reading annuitants as to exchange of their annuities for debenture stock.

18. The Company and any Reading annuitant under "The South-eastern and Reading, Guildford, and Reigate Railways Amalgamation Act, 1852," may make and carry into effect agreements for the redemption and extinguishment of his annuity or annuities, and the grant and issue of debenture stock of the Company in exchange for the certificate or certificates of the annuity or annuities, which certificates shall be forthwith cancelled or destroyed, and the Company may create and issue such debenture stock accordingly: Provided that the total annual payment to be made by the Company shall not be increased.

Power to apply corporate funds to purposes of Act.

19. The Company may apply to the purposes of this Act any of the moneys which they have raised or which they have power to raise by virtue of any Acts relating to the Company, and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power to raise additional money.

20. The Company from time to time may raise by the creation and issue of shares or stock such sums of money as they shall think necessary, not exceeding one hundred and twenty thousand pounds, exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament, and the Company may create and issue such shares or stock either wholly or partially as ordinary or wholly or partially as preferential shares or stock, as they may think fit.

Shares not to issue until one fifth paid up.

21. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth

of the amount of such share shall have been paid in respect thereof. A.D. 1875.

Limit of amount and number of calls.

22. The amount of any one call to be made upon the shares created under the powers of this Act shall not exceed one fourth of the amount of such shares, 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.

Votes in respect of new shares or stock.

23. The proprietors of any shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as they would have been entitled to had such shares or stock been existing shares or stock of the like class in the Company.

Power to borrow on mortgage.

24. The Company may from time to time borrow on mortgage, in addition to any sums which they are already authorised to borrow, any sum not exceeding in the whole forty thousand pounds, but no part thereof shall be borrowed until 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 of such capital 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 of such capital 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 and paid up 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, 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.

Existing mortgages to have priority.

25. All mortgages or bonds 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

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continuance of such mortgages and bonds, and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted, have priority over any mortgages granted by virtue of this Act, and 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.

Application of moneys.

26. All moneys raised 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.

Interest on calls not to be paid out of capital.

27. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend 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.

28. 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 other work or undertaking.

Railways not exempt from provisions of present and future general Acts.

29. 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, 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 Company.

Expenses of Act.

30. 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.

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