CHAPTER ccxxviii.

An Act to authorise the South-eastern Railway Company to extend the Hythe and Sandgate Branch Railway to Folkestone; to widen a portion of their Charing Cross Line; to acquire additional Lands; and for other purposes. A.D. 1876.

[11th August 1876.]

WHEREAS it is expedient that the South-eastern Railway Company (in this Act referred to as "the Company") be empowered to make and maintain the railway, widening of railway, and bridge by this Act authorised, and to acquire for the general purposes of their undertaking certain lands in this Act described or referred to:

And whereas plans and sections showing the lines and levels of the proposed new works, 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, Surrey, Middlesex, and Sussex, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas since the said plans and sections were deposited it has been found that an alteration of the line of the said proposed railway, by diverting a part thereof through certain lands of the Right Honourable the Earl of Radnor which are beyond the limits of deviation shown on the said deposited plans, would be equally advantageous to the public and would be less objectionable to the said Earl of Radnor and other owners and occupiers of lands and houses in the parish and township of Folkestone, and an amended plan and section of such altered line and a book of reference to such plan have been deposited with the clerk of the peace for the county of Kent:

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And whereas it is expedient to extend the time limited by "The Rye and Denge-ness Railway and Pier Act, 1873," for the compulsory purchase of lands authorised to be taken by that Act:

And whereas it is expedient that the Company be authorised to raise further capital, and that the other provisions of the Act be made:

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, 1876."

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,

"The Railways Clauses Consolidation Act, 1845:"

Part I. (relating to construction of a railway) and 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 remedies of creditors of the Company against the shareholders;

The borrowing of money;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The making of dividends;

The giving of notices; and

The provisions to be made for affording access to the special Act by all parties interested; and

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 of terms.

3. In this Act, and for the purposes of this Act,—

(1.) 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;

(2.) 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; and

(3.) The expressions "parish clerks" and "clerks of the several parishes," in sections seven, eight, and nine of "The Railways Clauses Consolidation Act, 1845," shall, with reference to the Company and as regards those parishes or extra-parochial places in which by the standing orders of either House of Parliament plans, sections, and other documents are required to be deposited with the clerk of the vestry of the parish, or with the clerk of the district board for the district in which the parish or extra-parochial place is included, mean in the first place the vestry clerks of those parishes, and in the second case the clerks of those district boards respectively.

Power to make railway, &c.

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 following railway, widening, and bridge herein-after described, with all proper stations, sidings, approaches, works, and conveniences connected therewith respectively, 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 railway, widening, and bridge heretofore referred to and authorised by this Act are,—

1. A railway, 2 miles 7 furlongs and 102 yards in length, commencing by a junction with the Company's Hythe and Sandgate Branch Railway at the present termination thereof in the parish of Cheriton, and terminating by a junction with the Company's railway in the Folkestone Harbour Station, in the parish and township of Folkestone, both in the county of Kent:

Notwithstanding anything herein contained, the said railway shall, from a point described on the said deposited plans as distant 1 mile 1 furlong and 9 chains from the commence-

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ment thereof up to a point described on the said plans as being 2 miles 4 furlongs and 2 chains from its commencement, be made and maintained, not according to the deposited plans first mentioned, but in accordance with the amended plan and section signed by Thomas William Evans, Esquire, the Chairman of the Committee of the House of Commons to whom the Bill for the Act was referred in its progress through that House, duplicates of which plan and section have been deposited with the clerk of the peace for the county of Kent as aforesaid:

2. The widening of a portion of the Company's Charing Cross line, 217 yards in length, commencing in the parish of St. Saviour, Southwark, and terminating in the parish of Christchurch, Southwark, both in the county of Surrey:

3. An extension of the hotel accommodation at Charing Cross by means of a bridge or covered passage across Villiers Street, in the parish of St. Martin-in-the-Fields, in the county of Middlesex, commencing at the Charing Cross Hotel on the western side of that street, and terminating on the site of the houses numbered 30 and 31 in that street.

Plans, &c. of bridge over Villiers Street to be approved by the Metropolitan Board of Works.

5. The plans and specifications of the said bridge or covered passage shall be submitted to and approved of by the Metropolitan Board of Works, and the said bridge or covered passage shall be constructed only of such design, elevation, and materials, and in such manner as shall be directed by the said Board; and in case of difference as to the reasonableness of such design, other than as to height or width, such difference shall be settled by an engineer appointed by the Board of Trade.

Railway and widening to form part of Company's undertaking.

6. The railway and widening authorised by this Act shall form part of the undertaking of the Company, and the Company may demand and receive such tolls and charges in respect of each and every description of traffic upon that railway and widening as they would have been entitled to demand and receive if the same had originally formed part of the main line of the South-eastern Railway.

Limits of deviation.

7. In constructing the railway, widening, and bridge by this Act authorised the Company may deviate from the lines shown on the deposited plans to any extent within the limits of deviation marked thereon, and may deviate from the levels shown on the deposited sections to any extent not exceeding two feet.

Power to acquire additional land for

8. 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 such of the lands and buildings following as are delineated on the deposited plans and described in the deposited books of reference relating thereto; (that is to say,) general purposes.

Certain lands required for the purpose of straightening the Company's line of railway in places where the sharpness of the curves is excessive, being the lands herein-after numbered 1, 2, 3, 4, 5, and 6.

1. Certain lands not exceeding nine acres, in the parish of St. Leonard, in the county of Sussex, on the western side of the Company's railway and adjoining thereto:
2. Certain lands not exceeding twenty-one acres, in the parish of Hollington, in the county of Sussex, on both sides of the Company's railway and adjoining thereto:
3. Certain lands not exceeding twenty-five acres, in the parish of Crowhurst, in the county of Sussex, on both sides of the Company's railway and adjoining thereto:
4. Certain lands not exceeding four acres, in the parish of Battle, in the county of Sussex, on the eastern side of the Company's railway and adjoining thereto:
5. Certain lands not exceeding three acres, in the parish of Whatlington, in the county of Sussex, on the western side of the Company's railway and adjoining thereto:
6. Certain lands not exceeding thirteen acres, in the parish of Mountfield, in the county of Sussex, on the western side of the Company's railway and adjoining thereto:
7. Certain lands in the parish of Tunbridge, at Tunbridge Wells, in the county of Kent, situate between the High Street and land and houses belonging to the Company abutting on their railway and adjoining Christ Church, and other lands adjoining the Company's railway station at the northern end thereof and abutting upon the western side of Mount Pleasant Road:
8. Certain lands in the parish of Greenwich, otherwise St. Alphage, Greenwich, in the county of Kent, bounded on the west by North Pole Lane, and on the north by lands belonging to the Company, and other lands situate in and abutting on London Road:

Provided that where any portion of the Company's existing line of railway is abandoned for the purpose of substituting a straighter line on land acquired under this section, the land on which the abandoned portion is situate, and any land situate between the abandoned portion and the substituted portion, shall, if not required

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for the purposes of the Company's undertaking, be deemed to be superfluous land within the meaning of the Lands Clauses Act, 1845, at the expiration of ten years from the passing of this Act: Provided also, that nothing in this section shall be deemed to authorise the Company to deviate from or straighten their line of railway.

Powers for compulsory purchases limited.

9. 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.

Period for completion of railway, &c.

10. If the railway, widening, and bridge by this Act authorised be 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 railway, widening, and bridge, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Power to take easements, &c. by agreement.

11. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or re-lease 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.

Power to cross a certain road on the level.

12. Subject to the provisions in the Railways Clauses Consolidation Act, 1845, and in Part I. (relating to the construction of a railway) of the Railways Clauses Act, 1863, contained in reference to the crossing of roads on the level, the Company may in the construction of the railway carry the same with a single line only, whilst such railway consists of a single line, and afterwards with a double line only, across and on the level of the road herein-after mentioned; (that is to say,)

No. on deposited Plans.	Parish and Township.	Description of Road.
98a.	Folkestone - -	Public.

Inclination of certain roads.

13. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclination

not steeper than the inclination herein-after mentioned in connexion therewith; (that is to say,)

No. on deposited Plans.	Parish and Township.	Description of Road.	Intended Inclination.
		Railway.	
70	Folkestone -	Public -	1 in 9½.

Saving rights of Admiralty.

14. Nothing in this Act contained shall authorise the Company to enter upon, take, use, or interfere with any land, building, soil, or water, or any estate, right, or interest in or in respect of any land, building, soil, or water of or belonging to the Lords Commissioners of the Admiralty, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Lords Commissioners for the time being, without their previous consent in writing, which consent the said Lords Commissioners for the time being are hereby authorised to give, subject to such special or other conditions as they may see fit to impose upon the Company.

Saving rights of the Crown in the foreshore.

15. 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.

Extension of time limited for taking lands by 36 & 37 Vict. c. ccxxxiv.

16. The time limited by the Rye and Denge-ness Railway and Pier Act, 1873, for the compulsory purchase of lands for the purposes of that Act shall be extended for a period of one year from the fifth day of August one thousand eight hundred and seventy-six.

No erection to be in front of Grand Redoubt.

17. No building or other obstruction shall be erected or made on the land authorised to be acquired by the Company under the powers of the "Rye and Denge-ness Railway and Pier Act, 1873," in front of the Grand Redoubt in the parish of Lydd.

Limiting line where crossing property of War Department.

18. Where the authorised line of railway crosses property belonging to Her Majesty's War Department, such line shall be constructed between the centre line and the southern limit of deviation shown on the deposited plan.

An equivalent in land to be provided by the Company for the Battery.

19. That in exchange for the land taken by the Company for the purposes of constructing the line of railway authorised in the parish of Lydd, the Company shall acquire and convey to Her Majesty's Principal Secretary of State for the War Department an equivalent area in land in such situation and direction as may be required and approved by the said Principal Secretary for an extension of the existing site of the Battery.

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

20. And whereas it is necessary that the lands, hereditaments, and works belonging to Her Majesty, or vested in Her Majesty's Principal Secretary of State for the War Department, for the public service, should be preserved intact and free from all intrusion or obstruction: Be it therefore enacted, that nothing in this Act contained shall authorise the Company to enter upon, use, or interfere with any land, soil, or water, or any right in respect thereof, vested in or exercised by the said Principal Secretary for the time being, or to take away, lessen, prejudice, or alter any of the rights, privileges, or powers vested in or exercised by the said Principal Secretary for the time being, without his previous consent, signified in writing under his hand, and which consent the said Principal Secretary for the time being is hereby authorised to give, subject to such special or other conditions as he shall see fit to impose on the said Company.

Penalty imposed unless railway opened within the time limited.

21. If the Company fail within the period limited by this Act to complete the railway which they are by this Act authorised to construct, 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 is completed and opened for public traffic, or until the sum received in respect of such penalty amounts to five per centum on the estimated cost of the railway. 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." 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 Chancery Division of the High Court of Justice, 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. No penalty shall accrue in respect of any time during which it appears 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.

22. 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 the railway, and for which injury or loss no compensation or inadequate compensation may have 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 may seem fit. If no such compensation is payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid is 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 Chancery Division of the High Court of Justice 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.

Company may erect refreshment rooms, &c. in Newington (Hythe).

23. The Company may erect and maintain refreshment rooms, offices, and hotel buildings in the parish of Newington, in the county of Kent, upon lands belonging to the Company, and hold the said refreshment rooms, offices, and hotel buildings, or any part thereof, as a part of the undertaking of the Company, and demand and recover charges and other payments in respect of, or sell, lease, or let, the same or any part thereof.

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Company may purchase land belonging to London Bridge Land Company, Limited.

24. The Company may, with the sanction of three fourths of their proprietors present in person or by proxy at a general meeting, in connexion with their London Bridge Station, make agreements with the London Bridge Land Company (Limited), and the mortgagees of their estate or other the owners thereof, for the purchase by the Company of the whole or part of thet estate, and may hold the same as a part of the general undertaking of the Company; but any part of the estate so purchased not required for station purposes shall be deemed to be superfluous land within the meaning of the Lands Clauses Act, 1845.

Provided that if within six months after the passing of this Act the London, Brighton, and South Coast Railway Company (who are herein-after called the Brighton Railway Company) shall give notice in writing under their common seal to the Company of their desire to share equally in the said purchase, and if in the next session of Parliament the Brighton Railway Company shall obtain power to share in the said purchase, the Company shall admit the Brighton Railway Company to such share as shall be agreed on between them.

Company may pay interest on debenture stocks at quarterly or other periods instead of half-yearly.

25. The Company may pay interest on all or any portion of the debenture stocks of the Company at quarterly or other periods instead of half-yearly as heretofore.

Power to apply corporate funds to purposes of Act.

26. 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.

27. The Company may raise additional capital, not exceeding 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.

Shares not to be issued until one-fifth part thereof shall have been paid up.

28. The Company shall not issue any share created under the authority of this Act, 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 the share has been paid in respect thereof.

Limit of amount and number of calls.

29. 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.

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

30. 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.

Power to borrow on mortgage.

31. The Company may, in respect of the additional capital of five hundred 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 one hundred and sixty-six thousand six hundred and sixty-six 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 in evidence thereof.

Existing mortgages to have priority.

32. 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 continuance of such mortgages and bonds, 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.

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Application of moneys.

33. 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.

34. 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.

35. 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.

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

36. 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.

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

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