



CHAPTER xlii.

An Act for conferring further powers on the Epsom Downs Extension Railway Company for the construction of works and otherwise in relation to their undertaking and for other purposes. A.D. 1897.
[3rd June 1897.]

WHEREAS by the Epsom Downs Extension Railway Act 1892 (in this Act called "the Act of 1892") the Epsom Downs Extension Railway Company (in this Act called "the Company") were incorporated for the purpose of making and maintaining the railway thereby authorised and for other the purposes of the Act and were authorised to raise a capital of seventy-five thousand pounds by shares and to borrow not exceeding twenty-four thousand five hundred pounds on mortgage and to create and issue debenture stock and the Company and the London Brighton and South Coast Railway Company were authorised to enter into working and other agreements and the respective periods limited for the compulsory purchase of lands for the purposes of the Act and for the completion of the railway thereby authorised were three years and five years from the passing of the Act :

And whereas the Company in exercise of the powers of the Act of 1892 have acquired or contracted for lands required for the purposes thereof and are proceeding with the construction of a portion of the railway thereby authorised :

And whereas it is expedient that the Company be authorised to make and maintain the railway in this Act described and to alter the levels of the portion in that behalf in this Act mentioned of the railway authorised by the Act of 1892 and to abandon the portion in this Act specified of the said authorised railway :

And whereas it is expedient that the period limited by the Act of 1892 for the completion of the railway thereby authorised as altered under this Act be extended as by this Act provided :

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

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And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act and that such other provisions be made with respect to the Company and their undertaking as are in this Act contained :

And whereas the estimated cost of the railway authorised by the Act of 1892 amounted to sixty-four thousand one hundred and twenty-one pounds and a sum of three thousand three hundred and seventy-six pounds two and three-quarters per centum consolidated stock being equal in value to five per centum upon the amount of such estimated cost was transferred into the name of the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for the Act of 1892 which sum is in that Act referred to as "the deposit fund" and is in this Act referred to as "the deposit fund of 1892" :

And whereas the estimated cost of the railway of the Company authorised by the Act of 1892 as altered under this Act amounts to thirty-one thousand pounds :

And whereas by reason of such reduction in the estimated cost of the said authorised railway as altered under this Act the whole of the share and loan capital authorised by the Act of 1892 will not be required and it is expedient that such share and loan capital be reduced as by this Act provided and that such provision as is in this Act contained be made with reference to the return of such portion (one thousand seven hundred and forty-three pounds stock) of the deposit fund of 1892 as will remain after retaining out of that deposit fund the sum of one thousand six hundred and thirty-three pounds stock being equal in value to five per centum on the amount of the estimated cost of the railway authorised by the Act of 1892 as altered under this Act :

And whereas the Company have not borrowed any money on mortgage nor have they created or issued any debenture stock :

And whereas plans and sections showing the line and levels of the railway and works authorised by this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Surrey and are herein-after respectively referred to as the deposited plans sections and books of reference :

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and

Commons in this present Parliament assembled and by the authority of the same as follows:— A.D. 1897.

1. This Act may be cited as the Epsom Downs Extension Railway Act 1897. Short title.

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act namely:— Incorporation of general Acts.

The Lands Clauses Acts:

The Railways Clauses Consolidation Act 1845:

Part I. (relating to construction of a railway) Part II. (relating to extension of time) and Part III. (relating to working agreements) of the Railways Clauses Act 1863:

The clauses and 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 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:

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 as amended by the Companies Clauses Act 1869.

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: Interpretation.

The expression "the railway" means the railway by this Act authorised;

The expression "the authorised railway" means the railway authorised by the Act of 1892 as altered under this Act

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except the portion of that authorised railway which is by this Act abandoned ;

The expressions "the railways" "the Epsom Downs Extension Railway" and "the undertaking" respectively mean the authorised railway and the railway and the undertaking of the Company ;

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 make railway.

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

A railway three furlongs and four chains or thereabouts in length commencing by a junction with the authorised railway in the field or enclosure numbered 7 in the said parish of Banstead on the plans deposited for the purposes of the Act of 1892 with the clerk of the peace for the county of Surrey and terminating in the enclosure numbered 224 on the $\frac{1}{2500}$ Ordnance map (second edition 1895) of the said parish of Banstead.

Railway to form part of railway of the Company.

5. The railway and the works connected therewith executed under the authority of this Act shall for the purposes of tolls rates and charges and all other purposes whatsoever be part of the Epsom Downs Extension Railway and comprised in the undertaking of the Company.

Period for compulsory purchase of lands.

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

Persons under disability may grant easements &c.

7. 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 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. A.D. 1897.

8.—(1) The Company shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied. Restriction on taking houses of labouring class.

(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.

9. Subject to the provisions of this Act the Company may in accordance with the deposited sections relating thereto alter the levels of the following portion of the authorised railway (that is to say):— Alteration of levels of portion of authorised railway.

From the point where that authorised railway crosses the road called or known as Epsom Lane to the termination of such authorised railway.

10. Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of four hundred and ninety-seven pounds being five per centum upon the amount of the estimate in respect of the railway has been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act which sum is referred to in this Act as the deposit fund Be it enacted that notwithstanding anything contained in the said Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them which persons survivors or survivor are or is in this Act referred to as the depositors unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the Deposit money not to be repaid except so far as railway opened.

A.D. 1897. public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section.

Application of deposit.

11. If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors. Provided that until the deposit fund has been re-transferred to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

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

Company to abandon portion of authorised line.

13. The Company shall abandon the construction of the following portion of the authorised railway (that is to say) :—

From the commencement thereof to a point one mile four furlongs and two and a half chains or thereabouts from such commencement.

14. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out of the line of railway and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Company to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act 1845 or in the Act of 1892.

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

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

Compensation to be made in respect of portion of railway abandoned.

16. The powers granted by the Act of 1892 for the construction of the authorised railway are hereby (except as to the portion thereof abandoned by this Act) extended and may be exercised by the Company for the period of three years from the twenty-seventh day of June one thousand eight hundred and ninety-seven and sections 35 and 36 of the Act of 1892 shall be read and construed as if the period limited by this Act for the completion of the said railway had been the period limited by the Act of 1892 for the completion thereof.

Extension of time for construction of railway.

If the said railway be not completed within the said period of three years then on the expiration of that period the powers for making and completing the same or otherwise relating thereto shall cease except as to so much thereof as shall then be completed.

17. Section 43 of the Act of 1892 (Power to pay interest out of capital during construction) as amended by this section shall apply to and the powers thereby conferred may be exercised by the Company for and during the extended period by this Act limited

Application of section 43 of Act of 1892 to extended

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period for
completion
of works. for the completion of the authorised railway Provided that the
said section 43 shall be read and have effect as if four thousand
pounds were therein (subsection c) substituted for six thousand
pounds.

Reduction of
share capital
under Act
of 1892. **18.** Section 6 (Capital and number and amount of shares) of the
Act of 1892 shall be read and have effect as if fifty-one thousand
pounds in five thousand one hundred shares were therein substituted
for seventy-five thousand pounds in seven thousand five hundred
shares.

Reduction of
loan capital
under Act
of 1892. **19.** Section 18 (Power to borrow) of the Act of 1892 shall be
read and have effect as if seventeen thousand pounds were therein
substituted for twenty-four thousand five hundred pounds and as if
fifty-one thousand pounds were therein substituted for seventy-five
thousand pounds.

Repayment
of portion of
deposit made
under Act of
1892. **20.** Subject to the provisions of section 36 of the Act of 1892
with respect to compensation to landowners and other persons injured
and for the protection of creditors the High Court may and shall at
any time after the passing of this Act on the application of the
depositors referred to in section 35 of the Act of 1892 order that
the sum of one thousand seven hundred and forty-three pounds two
and three-quarters per cent. consolidated stock portion of the deposit
fund of 1892 may be paid or transferred to the said depositors or
to such person or persons as they may appoint in that behalf and
upon such order being made the said sum of one thousand seven
hundred and forty-three pounds two and three-quarters per cent.
consolidated stock and the interest or dividends thereon shall be
paid or transferred to the said depositors or to such person or persons
accordingly.

Agreements
with Chip-
stead Valley
Railway
Company. **21.** The Company and the Chipstead Valley Railway Company
(herein-after referred to as "the two Companies") may subject to the
provisions of Part III. of the Railways Clauses Act 1863 as amended
or varied by the Railway and Canal Traffic Acts 1873 and 1888
from time to time enter into and carry into effect agreements with
respect to the following purposes or any of them (that is to say):—

The management use working and maintenance by the two
Companies or either of them of their respective railways or any
part or parts thereof;

The supply by the two Companies or either of them during the
continuance of any agreement for the working or use of their
respective railways of any rolling or working stock necessary
for the purposes of such agreement and of officers and servants
for the conduct of the traffic on such railways;

The payments to be made and the conditions to be performed with respect to the matters aforesaid ; A.D. 1897.

The interchange accommodation conveyance and delivery of traffic upon or coming from or destined for the respective undertakings of the two Companies ;

The division between the two Companies of the receipts arising from such traffic ;

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

22. Where under any agreement in pursuance of this Act traffic is conveyed partly on the railway of the Company and partly on the railway of the Chipstead Valley Railway Company the railways of the two Companies shall for the purposes of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers conveyed partly on the railway of the Company and partly on the railway of the Chipstead Valley Railway Company for a less distance than three miles rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only.

Rates and charges on traffic conveyed partly on railway of Company and partly on Chipstead Valley Railway.

23. The Company may apply towards the construction of the railway and 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 from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the said moneys for the purposes of this Act and for other purposes of and connected with their authorised undertaking any additional sum or sums not exceeding in the whole eighteen thousand pounds by the issue of new ordinary shares or stock which shares or stock shall form part of the general capital of the Company.

Company may apply their funds towards purposes of Act and may raise additional capital.

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

Shares not to vest until one-fifth part paid up.

25. If any money is payable under this Act to a holder of shares or stock 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.

Receipt in case of persons not sui juris.

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New shares or stock to be subject to the same incidents as other shares or stock.

26. 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.

The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

27. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called up and paid on such new shares or to the whole amount of such stock as the case may be.

As to votes of proprietors of new shares or stock.

28. The proprietors of any ordinary shares or stock to be issued under the authority of this Act shall subject to the provisions of this Act be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares or stock of the Company.

Power to borrow.

29. The Company may in respect of the additional capital of eighteen thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sum not exceeding in the whole six 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 to the extent aforesaid 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 so far as the said additional capital is raised by shares that such persons or corpora-

tions 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.

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30. Section 19 of the Act of 1892 with respect to the appointment of a receiver by mortgagees of the Company is 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 that section. 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 three thousand pounds in the whole.

Appoint-
ment of
receiver.

31. The Company may create, and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 20 of the Act of 1892. Notice of the effect of that enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture
stock.

32. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act or for the general purposes of the Company being in all cases purposes to which capital is properly applicable and not otherwise.

Application
of moneys.

33. Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any holder of shares or stock created under the provisions of this Act on the amount from time to time paid up on such shares or stock held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the railway or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say):—

Power to
pay interest
out of capital
during con-
struction.

(a) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two-thirds at least of the share capital authorised by this Act in respect of which such interest may be paid have been

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actually issued and accepted and are held by shareholders who or whose executors administrators or assigns are legally liable for the same ;

- (b) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear ;
- (c) The aggregate amount to be so paid for interest shall not exceed three thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one-third of the amount paid for interest as aforesaid ;
- (d) Notice that the Company has power to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares in the capital authorised by this Act and in every certificate of shares ;
- (e) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this 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.

34. 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.

35. Nothing in this Act contained shall exempt any Company mentioned in this Act or the railways of any such Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares

and charges or of the rates for small parcels authorised to be taken by the respective Companies. A.D. 1897.

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

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