CHAPTER cxvii.

An Act for empowering the Ballymena, Cushendall, and Redbay Railway Company to make certain new Railways; to acquire additional Lands; to divide their Shares; and for other purposes. [4th July 1878.] A.D. 1878.

WHEREAS by the Ballymena, Cushendall, and Redbay Railway Act, 1872, (in this Act called "the Act of 1872",) the Ballymena, Cushendall, and Redbay Railway Company (in this Act called "the Company") were incorporated, and were authorised to construct a railway from the Belfast and Northern Counties Railway at Ballymena to Cushendall and Redbay, and such railway is for the most part completed and open for traffic: 35 & 36 Vict. c. lxxxv.

And whereas it is expedient that the Company should be authorised to construct the extension railways and acquire the lands herein-after described:

And whereas it is expedient that the Company should be authorised to divide their share capital into preferred and deferred half shares:

And whereas it is expedient that the Company should be authorised to enter into agreements with the owner or owners of the market place at Ballymena, as herein-after mentioned:

And whereas it is expedient to revive the powers and extend the time for the purchase of the lands herein-after specified, which the Company were authorised to acquire by the Act of 1872:

And whereas plans and sections showing the lines and levels of the railways and works authorised by this Act, and the lands to be taken for the purposes thereof, and plans of lands over which revived and extended powers of purchase are sought, and of the additional lands which the Company are authorised to take under the powers of this Act, and books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of all such lands, were duly deposited with the clerk of the peace for the county of Antrim, and the said documents are

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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:

Short title.

1. This Act may be cited as the Ballymena, Cushendall, and Redbay Railway Act, 1878.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

2. The clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (that is to say,)

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 borrowed money into capital;

The consolidation of shares into stock;

The giving of notices; and

The provision to be made for affording access to the special Act by all parties interested; and Part I. (relating to the cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, as amended by the Railways, Ireland, Act, 1851, the Railways, Ireland, Act, 1860, the Railways, Ireland, Act, 1864, and the Railways Traverse Act, the Railways Clauses Consolidation Act, 1845, and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act, 1863, are (except where expressly varied by this Act) incorporated with and form part of this Act.

26 & 27 Vict. c. 118. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 14 & 15 Vict. c. 70. 23 & 24 Vict. c. 97. 27 & 28 Vict. c. 71. 14 & 15 Vict. c. 70. 8 & 9 Vict. c. 20. 26 & 27 Vict. c. 92.

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 shall have the same respective meanings, unless there be

something in the subject or context repugnant to such construction, and the expression "the railway" or "the undertaking" shall mean the railway or undertaking by this Act authorised.

As to deposit of plans with clerks of unions. 8 & 9 Vict. c. 20.

4. With reference to this Act, all the provisions of sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, shall be read and construed as if, instead of the expression "postmasters of the post towns in or nearest to such parishes in Ireland," the expression "clerks of the unions within which such parishes are included in Ireland," and as if, instead of the word "postmasters," the words "clerks of the union," had been used and inserted in that Act throughout those sections.

Power to make railways according to deposited plans.

5. 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 railways herein-after described, with all proper stations, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes. The railways herein-before referred to and authorised by this Act are—

A railway, Number 1, five furlongs four chains and eight yards in length, commencing by a junction with the railway of the Company at a point one hundred yards distant or thereabouts, measured in a south-westerly direction, from the centre of the south-western parapet of the bridge carrying the Ballymena and Ballymoney new public road over the Company's railway, in the townland of Ballyloughan, and terminating in the public market place in the town of Ballymena:

A railway, Number 2, four furlongs and four and a quarter chains in length, commencing by a junction with the railway of the Company, at a point on that railway three hundred and seventy yards or thereabouts, measured in an easterly direction along the said railway, from the east side of the Old Ballymoney public road, in the townland of Ballyloughan, and terminating in the said market place at Ballymena:

A railway, Number 3, two miles two furlongs and fifty-three yards in length, commencing by a junction with the Company's railway, at a point on that railway two hundred and forty-two yards or thereabouts distant from the northern side of the Ballygarvey public road, passing Moattown and Ballygarvey House, measured from the north face of the bridge carrying the said road over the Company's railway in an easterly direction along the centre of the said railway, and terminating in

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the townland of Tullymore, on the west side of the public road leading from the Broughshane and Glenarm public road, passing Tullymore Lodge at a point distant one hundred and ninety-three yards or thereabouts, measured in a northern direction along the first-mentioned public road, from the mill-race flowing to the Corn and Beetling Mills, where it crosses the said road:

A railway, Number 4, four miles four furlongs and fourteen yards in length, commencing at the termination of the said railway Number 3, and terminating in the townland of Aghafatten at a point distant one hundred yards or thereabouts, measured in a south-westerly direction, from the southern end of the Roman Catholic Chapel in the said townland of Aghafatten:

A railway, Number 5, two miles two furlongs and seven chains in length, commencing by a junction with the said railway Number 3, at the termination thereof, and terminating in a field in the townland of Clonetrace at a point measured ten yards or thereabouts to the east of the public road leading from Broughshane to Clonetrace Bridge, and at right angles to the same, and measuring three hundred and fifty yards or thereabouts in a northerly direction from the centre of Dogherty's Bridge on the said road.

Power to alter or widen bridges.

6. Subject to the provisions of this Act, the Company may make and execute, in the lines and according to the levels shown on the deposited plans and sections, the works herein-after described, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference relating thereto as may be required for those purposes; (that is to say,)

They may widen and reconstruct the following bridges; (that is to say,)

(1.) The existing bridge, in the townland of Brocklamont, carrying the public road from Ballymena to Cullybackey over the Company's railway:

(2.) The existing bridge, in the townland of Ballyloughan, carrying the new public road from Ballymena to Ballymoney over the Company's railway:

(3.) The existing bridge, in the townland of Ballyloughan, carrying the old road from Ballymena to Ballymoney over the Company's railway.

Power to acquire additional lands.

7. Subject to the provisions of this Act, and in addition to the other lands which they are by this Act authorised to acquire, the

Company may from time to time enter upon, take, use, and appropriate, for the general purposes of their undertaking and works connected therewith, and for providing increased accommodation, all or any of the lands following, delineated on the deposited plans and described in the deposited books of reference relating thereto; (that is to say,)

Certain lands on the west side of the Company's station grounds at Ballymena, lying between those grounds and the railway of the Belfast Company:

Certain lands on the east side of the said grounds at Ballymena, lying between those grounds and the old road leading from the present public road from Ballymena to Cullybackey:

Certain lands on the east side of the said grounds, and lying between those grounds, the said old road, and the said public road leading from Ballymena to Cullybackey.

Power to apply funds and raise additional capital. 26 & 27 Vict. c. 118.

8. The Company may apply for the purposes of this Act any moneys which by the Act of 1872 they are authorised to raise, and which are not required for the purposes of that Act; and, subject to the provisions of Part II. of the Companies Clauses Act, 1863, they may raise any additional capital not exceeding in the whole the sum of sixty thousand pounds, in shares of ten pounds each.

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

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

Calls.

10. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

11. If any money be payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be sufficient discharge to the Company.

Power to divide shares.

12. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share," but the Company shall not so divide any

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share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares.

13. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following; (that is to say,) first, in payment of dividend, after such rate, not exceeding six per centum per annum, as shall be determined once for all at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share, and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividends on preferred half shares to be paid out of profits of the year only.

14. Each preferred half share shall be entitled, out of the profits of each year, to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half share bearing the same number, but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent half year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

15. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated on certificates.

16. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

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17. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the forfeiture of shares for non-payment of calls, shall apply to all preferred half shares created under the authority of this Act, and every such preferred half share shall for that purpose be considered an entire share, distinct from the corresponding deferred half share, and until any forfeited preferred half share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Forfeiture of preferred shares. 8 & 9 Vict. c. 16.

18. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Preferred shares not to be cancelled or surrendered.

19. The several half shares under this Act shall be half shares in the capital of the Company, and every two half shares (whether preferred or deferred, or one of each) held by the same person shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Half shares to be half shares in capital.

20. The Company may from time to time, in manner hereinafter provided, borrow on mortgage any sums not exceeding in the whole thirty thousand pounds; (that is to say,) when and so soon as the sum of ten thousand pounds, part of the capital of sixty thousand pounds, shall have been issued, accepted, and paid up, the Company may borrow on mortgage any sum not exceeding five thousand pounds, and so often as any further and additional sum of ten thousand pounds shall in like manner have been issued, accepted, and paid up, the Company may borrow a further sum of five thousand pounds, until they shall have borrowed the total sum hereby authorised to be borrowed; but no part of the said several sums hereby authorised to be borrowed shall be borrowed until 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 the whole of that portion of the capital in respect of which the borrowing power is proposed to be exercised has been issued, accepted, and paid up, 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.

Power to borrow money on mortgage.

8 & 9 Vict. c. 16.

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Priority of principal moneys secured by existing mortgages.

21. The principal moneys secured by 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 time of the passing of this Act, shall, during the continuance of such mortgages, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

As to appointment of a receiver.

22. Section thirteen of the Act of 1872 is hereby repealed, but without prejudice to any appointment heretofore made or proceedings now pending. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their respective mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Power to create and issue debenture stock. 26 & 27 Vict. c. 118.

23. 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 created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

24. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Lands for extraordinary purposes. 8 & 9 Vict. c. 20.

25. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed three acres.

Period for compulsory purchase of lands.

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

Gauge.

27. Notwithstanding anything in the Act of ninth and tenth Victoria, chapter fifty-seven, the Company may construct the railway of such gauge as they think fit, provided it be not wider than five feet three inches, or narrower than two feet.

Company liable to penalty unless railway opened within time limited.

28. If the Company fail within the period limited by this Act to complete the railway, 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

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to five per cent. on the estimated cost of the works, 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 the Accountant General of the Chancery Division of the High Court of Justice in Ireland, in the bank specified in such warrant or order, and shall not be paid thereout except as 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 such line by unforeseen accident or circumstances beyond their control; provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

17 & 18 Vict. c. 31.

Application of penalty in compensation to parties, &c. injured.

29. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "Dublin 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 Chancery Division in Ireland may seem fit, and 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 has 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 Chancery Division 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 said Chancery Division, if the Company is insolvent, and has been ordered to be wound up, or a receiver has been

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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.

Revival and extension of time for taking lands.

30. The powers conferred upon the Company by the Act of 1872 for the compulsory purchase of the lands delineated on the deposited plans and described in the deposited books of reference are hereby revived and extended, and shall continue in force until the eighteenth day of July one thousand eight hundred and seventy-nine.

Period for completion of works.

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

New railway and works to be part of the Company's undertaking.

32. The railway by this Act authorised shall, for the purposes of tolls and charges, and all purposes whatsoever, be part of the railway of the Company as if authorised by the Act of 1872, and the lands and property from time to time acquired by the Company under this Act, and the railway and works herein-before described, shall be part of the undertaking and property of the Company as if the Company had by the Act of 1872 been authorised to acquire, make, and maintain the same.

Power to enter into working agreements. 26 & 27 Vict. c. 92. 36 & 37 Vict. c. 76.

33. The Company on the one hand, and the Belfast Company on the other hand, may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, as amended or varied by the Regulation of Railways Act, 1873, from time to time enter into agreements with respect to the following purposes, or any of them; (that is to say,)

The maintenance and management of the railway or of any part or parts thereof respectively, and of the works connected therewith respectively, or any part thereof;

The use or working of the railway or of any part or parts thereof respectively, and the conveyance of traffic thereon;

The supply, under any agreement for the railways being worked and used by the Belfast Company, of rolling or working stock necessary for the purposes of such agreement, and of officers and servants for the conduct of the traffic on the railway;

The payments to be made and the conditions to be performed with respect to the matters aforesaid;

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting Companies, and the levying, fixing, collection,

apportionment, and division between the said Companies of the tolls, rates, charges, receipts, and revenues taken, levied, or arising from such traffic.

Tolls on traffic conveyed partly on the railway and partly on the Belfast Railway.

34. During the continuance of any agreement to be entered into under the provisions of this Act, the railway of the Company and of the Belfast Company shall, for the purposes of tolls and charges, be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway of the Company and partly on the railways of the Belfast Company for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railway of the Company and partly on the railway of the Belfast Company.

Agreements with owners of market place at Ballymena.

35. The Company may enter into agreements with the owner or owners for the time being of the market place at Ballymena with reference to the laying down and use by the Company of rails or tramways in the said market place, or otherwise with respect to works for the accommodation of the traffic of the market.

Interest not to be paid on calls paid up.

36. 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.

8 & 9 Vict. c. 16.

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

37. 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.

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

38. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future

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revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this Act.

Expenses of Act.

39. 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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