CHAP. cxxxix.

An Act to extend the powers of the Dublin Trunk Connecting Railway Company for the taking of lands and completion of their undertaking; to change the name of the Company; and for other purposes. [1st August 1870.]

A.D. 1870.

WHEREAS by "The Dublin Trunk Connecting Railway Act, 1864," (herein-after called "the Act of 1864,") the Dublin Trunk Connecting Railway Company (herein-after called "the Company") were incorporated, and authorised to make and maintain railways and tramways in and near the city of Dublin, and by the same Act it was provided that the powers thereby conferred for the compulsory purchase of lands should not be exercised after the expiration of three years from the passing of that Act, and that the railways and works thereby authorised should be completed within five years from the passing of that Act: 27 & 28 Vict. c. cccxxi.

And whereas by "The Dublin Trunk Connecting Railway (Deviation, &c.) Act, 1865," (herein-after called "the Act of 1865,") the Company were authorised to make and maintain junction and deviation railways, and it was thereby provided that the powers of the Company for the compulsory purchase of lands for the purposes of that Act should not be exercised after the expiration of three years from the passing thereof, and that the railways and works by that Act authorised should be completed within four years from the passing thereof: 28 & 29 Vict. c. ccxxi.

And whereas by "The Dublin Trunk Connecting Railway Act, 1867," (herein-after called "the Act of 1867,") it was provided that the powers of the Company for the compulsory purchase of lands for the purposes of the Company as authorised by "the Act of 1864" should not be exercised after the expiration of two years from the passing of that Act, and that the railways and works by "the Act of 1864" and by "the Act of 1865" authorised should be completed within three years from the passing of the same Act of 1867: 30 & 31 Vict. c. ccv.

A.D. 1870.

And whereas the Company have entered into contracts for the purchase of considerable portions of the lands authorised to be purchased for the purposes of "the Act of 1864" and "the Act of 1865," but have not yet purchased or contracted to purchase the whole of such lands:

And whereas it is expedient that such of the powers granted to the Company by "the Act of 1864," "the Act of 1865," and "the Act of 1867," (herein-after called "the former Acts") as may have expired should be revived, and that the same, so far as they relate to the period for the compulsory purchase of lands not already acquired or contracted for by the Company, and to the periods by the former Acts fixed for the completion of the railways and works by those Acts respectively authorised, should be further extended:

And whereas it is expedient that the name of the Company should be changed, and that the Company should henceforward be described and known as "The Dublin Port and City Railway Company:"

And whereas by "the Act of 1864" the Company were authorised to raise by shares the sum of two hundred and fifty-five thousand pounds, and by borrowing the sum of eighty-five thousand pounds, and they have raised and expended eighty-four thousand four hundred and forty pounds eleven shillings and elevenpence, part of the said sum of two hundred and fifty-five thousand pounds:

And whereas by "the Act of 1865" the Company were authorised to raise by shares the sum of twenty-four thousand pounds, and by borrowing the sum of eight thousand pounds, but they have not raised any part of those sums:

And whereas it is expedient that the Company for the completion of their undertaking should be authorised to raise additional moneys by the creation and issue of ordinary or preference stock or shares, and by borrowing in the manner and to the extent by this Act authorised:

And whereas it is also expedient that such further and other powers and provisions as are herein-after contained should be conferred and made:

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the 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 for all purposes as "The Dublin Port and City Railway Act, 1870."

A.D. 1870.

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Railways Clauses Consolidation Act, 1845," "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," Part II. (relating to extension of time) of "The Railways Clauses Act, 1863;" 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 nonpayment 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 surrender and cancellation of shares), Part II. (relating to additional capital), Part III. (relating to debenture stock), and Part IV. (relating to change of name) of "The Companies Clauses Act, 1863," and "The Companies Clauses Act, 1869," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated and authorised by the former Acts and this Act, whether the Company be referred to by the name which it has hitherto borne of "The Dublin Trunk Connecting Railway," or by its future name of "The Dublin Port and City Railway Company;" the expressions "the railway," "the railway and works," or "the undertaking" shall mean the railways and works authorised by the former Acts respectively, or any part thereof.

Change of name.

4. The name of the Company shall from the passing of this Act be "The Dublin Port and City Railway Company," and, subject to the provisions of this Act, the former Acts, and the Acts incorporated therewith, and all other Acts relating to the Company, shall, notwithstanding such change of name, continue to apply to the Company in like manner in all respects as if the name of the Company had not been changed and this Act had not been passed.

Powers for compulsory

5. The powers of the Company for the compulsory purchase of those portions of the lands required for the purpose of the railways

A.D. 1870.

purchases limited.

authorised by the Act of 1864, and situated in the parishes of St. Mary, Donnybrook, in the county of Dublin, and St. Mark in the county of the city of Dublin, and under the bed of the River Liffey, partly in those parishes and partly in the parish of St. Thomas in the county of the city of Dublin, which the Company have not already taken or acquired the right to take under the provisions of the "Railways Act (Ireland), 1851," may be exercised within but shall not be exercised after the expiration of two years from the passing of this Act; and the word "notice" contained in the twenty-first section of "The Railways Clauses Act, 1863," shall for the purposes of this Act mean "maps, plans, and schedules deposited in accordance "with the provisions of the 'Railways Act (Ireland), 1851,'" or, as the case may be, "award made by the arbitrator" in accordance with that Act or any Act amending the same.

For protection of Dublin and Drogheda Railway Company.

6. Provided always, that, notwithstanding anything in this Act or in the former Acts, or any or either of them, the Company shall not, without the previous consent in writing of the Dublin and Drogheda Railway Company, enter upon, take, or use such parts of the properties numbered respectively upon the deposited plans referred to in "The Dublin and Drogheda Railway (North Wall Extension) Act, 1869," 1, 2, 3, 4, 5, 6, 7, 8, 8a, 9, 10, 11, 12, 12a, 13, 13a, 14, 14a, 15, 16, and 17 in the parish of Saint Thomas in the city of Dublin, as are or in the opinion of the principal engineer for the time being of the Dublin and Drogheda Railway Company will be required for the purposes of the railway by that Act authorised (herein-after called the North Wall Extension Railway); provided also, that the railways (No. 1 and No. 7) authorised by the Act of 1864 shall be so constructed as not to interfere with or involve any alteration in the line or levels of the North Wall Extension Railway, as shown by a plan and section of that railway signed by Sir Charles Fox and Sons on behalf of the Company, and Marcus Harty on behalf of the Dublin and Drogheda Railway Company; provided also, that the said railway No. 7 shall be carried across the North Wall Extension Railway on the level thereof, and that the said railways No. 1 and No. 7, and all other works of the Company crossing or otherwise interfering with the North Wall Extension Railway, or any works or lands connected therewith, shall be constructed under the superintendence and to the reasonable satisfaction in all respects of the principal engineer for the time being of the Dublin and Drogheda Railway Company, any difference of opinion between him and the principal engineer of the Company in reference to all or any of the matters aforesaid to be settled by arbitration in the manner prescribed by "The Railway Companies Arbitration Act, 1859."

Company to take an easement only in certain lands belonging to James Martin.

7. Nothing in this or in any other Act relating to the Company shall authorise the Company to take or enter upon the surface of the land numbered 143, 144, 145, and 164 in the parish of St. Thomas and city of Dublin on the plans deposited with reference to the Act of 1864, but the Company shall only take or acquire a right of easement of making and maintaining the railway through the soil of the said land by means of a tunnel as shown on the said plans; provided that the top of the tunnel where it passes through the said land shall be not less than forty-five feet at the North Wall and thirty-three feet at Mayor Street beneath the surface of the said land, and the tunnel shall be so constructed as to prevent any deterioration to the land for building purposes, and so as to prevent any damage arising to any building which has been or may be placed on the said land; and nothing in this or in any other Act relating to the Company shall authorise the Company to enter upon the surface of or to construct any tramway across the surface of the said land without the consent in writing of James Martin, his heirs or assigns, and the right to take such easement under the said lands shall not be exercised after the period limited by this Act for the compulsory purchase of lands.

Period for completion of works.

8. The railways and works authorised by the former Acts shall be completed within three years from the passing of this Act, and if the said railways and works shall not be completed within that period, then on the expiration thereof the powers by this Act granted to the Company for making and completing the said railways and works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Power to raise additional capital.

9. In addition to any sums of money which the Company are already authorised to raise, they may for the purposes of their undertaking raise by the creation and issue of new ordinary shares or stock any further sums not exceeding in the whole sixty thousand pounds.

Limit of amount and number of 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 each share shall be the utmost aggregate amount of the calls made in any year upon any share.

Shares not to issue until one fifth paid up.

11. The Company shall not issue any share or stock created under the authority of this Act, nor shall any share or stock vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount at which such share or stock was issued shall have been paid in respect thereof.

A.D. 1870.

Qualification, &c. of new shares and stock.

12. Except as by or under the powers of this Act otherwise provided, all such new stock shall in proportion to the amount thereof, and all such new shares shall in proportion to the amount for the time being paid up thereon, confer upon the respective holders thereof the same qualifications, rights of voting, and other privileges as any ordinary shares or stock of the Company.

Dividends on new shares, &c.

13. Every person who becomes entitled to any new share or stock under the powers of this Act shall in respect of the same be a proprietor in and of the undertaking of the Company, and (except as otherwise provided by or under the powers of this Act) shall be entitled to a dividend with the other proprietors proportioned to the amount of such stock or to the whole amount for the time being paid up on such shares, as the case may be.

Company may cancel unissued new shares or stock, and re-issue.

14. If after having created any new or original shares or stock in their undertaking the Company resolve not to issue the same or any class or part thereof, or if having issued any such shares or stock the holders thereof shall consent to surrender the same, the Company may cancel the shares or stock or portion thereof to which such resolution or consent applies, and may from time to time thereafter create or issue in lieu thereof other new shares or stock, not exceeding the aggregate amount of the shares or stock so cancelled.

Company may cancel and re-issue forfeited shares.

15. The Company may from time to time cancel any shares of the Company forfeited or liable to be forfeited, including shares applied for and allotted to persons or their nominees who failed to pay twenty per centum on the amount of such shares respectively, and from whom no further payments in respect of such shares can be obtained, and upon the forfeiture and cancellation of any such shares it shall be lawful for the Company to create and issue other shares or stock in lieu thereof, in one or more classes, not exceeding the aggregate nominal value of the shares so forfeited.

Company may attach preferential dividend to substituted shares within certain limits.

16. The Company may, with the sanction and consent of three fifths at least of the votes of the shareholders or holders of stock in the Company, present personally or by proxy at any extraordinary general meeting of the Company convened from time to time with due notice of the object, declare that the shares or stock created and issued in lieu of any shares forfeited and cancelled as aforesaid, or any portion thereof, shall be preference shares or preference stock, and may attach to such shares or stock any preferential interest or dividend, not exceeding the rate of five per centum per annum, which may be expressed in any resolution passed at such extraordinary general meeting with regard to such shares or stock, and such shares

or stock may consist either of one class or of several classes, and may have attached to them such conditions, terms, and priorities as shall be expressed in any such resolution as aforesaid: Provided always, that whatever amount of shares in the capital of the Company may from time to time be forfeited and cancelled under the provisions of this Act, the proportion of the shares or stock issued in substitution for the same to which a preferential interest or dividend may be attached as aforesaid under the provisions of this enactment shall not exceed in the whole the amount of twenty thousand pounds.

Power to borrow on mortgage.

17. The Company may from time to time borrow on mortgage, in addition to such sums as they are authorised to borrow under the former Acts, any sum not exceeding in the whole twenty thousand pounds, but no part thereof shall be borrowed until the whole capital of sixty thousand pounds by this Act authorised to be raised is subscribed for, 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 the whole of such capital has been subscribed for, 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 that such capital was issued bonâ fide, and is held by the subscribers or their assigns, and that such subscribers or their 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 shall be sufficient evidence thereof.

Existing mortgages to have priority.

18. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall during the continuance of such mortgages, and as regards the undertaking comprised in and assigned thereby, have priority over all mortgages granted by virtue of this Act.

Act not to affect the position of judgment creditors.

19. Nothing in this Act contained shall vary or in any way prejudicially affect the position of any judgment creditor of the Company whose judgment debt shall at the passing of this Act remain and be unsatisfied, in respect either of the priority or recovery thereof.

Repealing provisions of

20. The provisions of all former Acts relating to the Company authorising the appointment of a receiver for principal or interest

A.D. 1870.

existing Acts as to receiver,

moneys due upon any mortgages or bonds of the Company are hereby repealed, but subject and without prejudice to any appointment of a receiver or proceedings taken under or by virtue of any such provisions, and in force or pending at the time of the passing of this Act.

For appointment of a receiver.

21. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on the mortgages held by them, whether created under the provisions of the former Acts or this Act, by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds.

Application of moneys raised under this Act.

22. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of the undertaking of the Company, and for no other purpose.

Bond given under Act of 1864 not to be invalidated.

23. Whereas under the forty-first section of the Act of 1864 a bond has been entered into for securing the completion of the railways by that Act authorised, be it enacted that nothing in this Act contained shall invalidate or in any way affect the validity of the said bond or the liability of any person under the same.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

24. And whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, cap. 20, certain Exchequer bills of the aggregate nominal value of two thousand pounds, purchased for the sum of two thousand pounds, being equal to eight per cent. upon the amount of the estimates in respect of the railways authorised by the Act of 1865, have been deposited with the Court of Chancery in Ireland in respect of the applications to Parliament for that Act: Be it enacted, that, notwithstanding anything contained in the recited Act of 1865, the Exchequer bills so deposited 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 same Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railways the time for completing which is hereby extended, either open the railways for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the Company have paid up one half of the amount of the capital by the Act of 1865 authorised to be raised by means of shares, and have expended for the purposes

of that Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railways for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the Exchequer bills deposited as aforesaid shall be applied in the manner herein-after specified, and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the recited Act to the contrary notwithstanding.

Application of deposit.

25. The Exchequer bills deposited 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 may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railways or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by the Act of 1865 or this Act, and for which injury or loss no compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in Ireland may seem fit; and if no such compensation shall be payable, or if a portion of the said Exchequer bills shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said Exchequer bills, or such portion thereof as may not be required as aforesaid, shall be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them: Provided that until the said Exchequer bills shall have been repaid to the depositors, or shall have 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Interest not to be paid on calls paid up.

26. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money

A.D. 1870.

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.

27. The Company shall not, out of any money by any Act relating to them 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.

28. Nothing herein contained shall be deemed or construed to exempt the railways by the former Acts and this Act authorised to be made 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 by the Act of 1864.

Expenses of Act.

29. 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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