CHAP. clxxxii.

An Act to authorise the construction of the Ennis and West Clare Railway. [31st July 1871.]

A.D. 1871.

WHEREAS the making and maintaining of the railways (No. 1 and No. 2) by this Act authorised would be of local and public advantage:

And whereas the persons herein-after named, with others, desire to be incorporated into a company for making the said railways:

And whereas plans and sections showing the lines and levels of the railways, together with books of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands and property required or which may be taken for the purposes of the undertaking, have been deposited for public inspection in the office of the clerk of the peace for the county of Clare, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas the grand jury of the county of Clare at the Spring Assizes, 1871, resolved that it was expedient that certain baronies herein-after mentioned, adjoining or near to the proposed line of railway No. 1, should, for the limited period herein-after mentioned, guarantee the payment of a limited dividend on the portion of the share capital of the Company herein-after also mentioned, and that for such purpose the lands, hereditaments, or premises within the said baronies should, when necessary, be chargeable with any deficiency of such limited dividend:

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 objects 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

A.D. 1871. with the advice and consent of the Lords Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Ennis and West Clare Railway Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," Parts I. and III. of "The Companies Clauses Act, 1863" (relating respectively to the cancellation and surrender of shares, and to debenture stock), "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," Parts I. and III. of "The Railways Clauses Act, 1863" (relating respectively to construction of a railway and to working arrangements), "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," and "The Railways Act (Ireland), 1864," 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 Company" means the Company incorporated by this Act; the expression "the railway" or "the railways" or "the undertaking" means the railway or undertaking by this Act authorised, or any part thereof; the expression "the undertakers" or "the promoters of the undertaking" means 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 be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

As to deposit of plans with clerks of unions.

4. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that certificates of any omissions, misstatements, or erroneous descriptions in certain plans and books of reference therein referred to shall be deposited with the postmasters of the post towns in or nearest to the several parishes in Ireland in which the lands affected thereby shall be situate, and it is also provided that certain plans and sections of such alterations in the original plans and sections as shall have been approved of by Parliament shall also be deposited with such postmasters, and be retained and produced by

them for inspection in manner therein mentioned: And whereas, in compliance with the present standing orders of both Houses of Parliament, the several plans, sections, and other documents heretofore required to be deposited with the postmasters of the post towns in Ireland are now deposited with the clerks of the unions instead of such postmasters: Therefore, with reference to this Act, all the provisions of "The Railways Clauses Consolidation Act, 1845," relating to the matters aforesaid 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 unions," had been used and inserted in that Act throughout those provisions.

Company incorporated.

5. Cornelius A. Keogh, James O'Brien, Thomas Lucas, Michael Kenny, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railway, and for the other purposes of this Act, and for those purposes shall be incorporated by the name of "The Ennis and West Clare Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railways according to deposited plans.

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

A railway (No. 1) twenty-five miles four furlongs and one chain in length, commencing by a junction with the Athenry and Ennis Junction Railway, in the parish of Templemaley and county of Clare, at or near a point on said railway two hundred and seventy-eight yards or thereabouts north of the bridge on said railway over the road from Ennis to Tulla, in said county, and which point of junction is one mile one furlong and one hundred and seventy yards, measured along the line, from the north end of the railway station-house at Ennis, and terminating in the parish of Kilfarboy, in the same county, in a

A.D. 1871.

field occupied by Michael Malone, in the townland of Cloonbony, at the north side of the public road from Miltown to Ennistimon, at a point one hundred and forty-eight yards north-west from the yard wall of the National Schools at Miltown, measured along said road, from Miltown to Ennistimon:

A railway (No. 2) six miles six furlongs and eight chains in length, commencing in the parish of Kilmanaheen, in said county, by a junction with railway (No. 1) at the cross road in Deerpark West, in a field occupied by Francis O'Brien, at or near a point seventeen miles six furlongs and two chains from the commencement of said intended railway (No. 1) as herein-before described, and seventeen yards to the south from the mail road, and terminating in the parish of Kilmoon, in the same county, in a field occupied by Thomas Morony adjoining the Gowlaun River in the townland of Knockaunvicteera, at or near a point two hundred and seventy yards south-west of the corner of Gowlaun Bridge, near the Sulphur Spa at Lisdoonvarna, and thirty-three yards south of the Gowlaun River.

Capital, number, and amount of shares.

7. The capital of the Company shall be ninety-nine thousand five hundred pounds, divided into nine thousand nine hundred and fifty shares of ten pounds each: Provided always, that a sum not less than fifty thousand pounds, part of the said sum of ninety-nine thousand five hundred pounds, shall, having regard to the provisions herein-after contained, be specially applicable to the purposes of the railway No. 1 and works belonging thereto.

Shares not to issue until one fifth paid up.

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

Calls.

9. 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 four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipts of guardians, &c. to be a sufficient discharge.

10. If any money be payable to a shareholder being a minor, idiot, or lunatic, the receipt of his or her respective guardian or committee shall be a sufficient discharge to the Company for the same.

Power to divide shares.

11. 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:" Provided always, that the Company shall not divide any 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.

12. 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 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.

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

13. 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 year or out of any other funds of the Company.

Half shares to be registered, and certificates issued.

14. 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: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it be shown to their satisfaction that the certificate is destroyed or lost, and on any such certificate being so delivered up the directors shall cancel it.

A.D. 1871.

Terms of issue to be stated in certificates.

15. 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.

Forfeiture of preferred shares.

16. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the forfeiture of shares for nonpayment of calls, shall apply to all preferred half shares to be created under the authority of this Act, and every such preferred half share shall for that purpose be considered a whole share, distinct from the corresponding deferred half share: Provided always, that until any forfeited preferred half share shall be sold by the directors of the Company, 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.

Preferred shares not to be cancelled or surrendered.

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

Half shares to be half shares in capital.

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

Power to borrow moneys on mortgage under regulations herein described.

19. When and so soon as the sum of twenty-five thousand pounds, part of the capital of ninety-nine thousand five hundred pounds, shall have been subscribed for, issued, and accepted, and one half thereof paid up, it shall be lawful for the Company to borrow on mortgage any sum not exceeding eight thousand three hundred and thirty-three pounds; and when the further sum of twenty-five thousand pounds, part of the said capital of ninety-nine thousand five hundred pounds, shall have been subscribed for, issued, and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding eight thousand three hundred and thirty-three pounds; and when the further sum of twenty-five thousand pounds shall have been subscribed for, issued, and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding eight thousand three hundred and thirty-three pounds; and when the further sum of twenty-four thousand five hundred pounds, being the remainder of the said capital of ninety-nine thousand five hundred pounds, shall have

been subscribed for, issued, and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding eight thousand one hundred and sixty-six pounds; but no part of any of the said four sums of eight thousand three hundred and thirty-three pounds, eight thousand three hundred and thirty-three pounds, eight thousand three hundred and thirty-three pounds, and eight thousand one hundred and sixty-six pounds, 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 the capital in respect of which the borrowing power is proposed to be exercised has 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 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 certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

20. The mortgagees of the Company may enforce payment of the arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of the principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than one thousand pounds in the whole.

Debenture stock.

21. The Company may create and issue debenture stock.

Persons advancing money on mortgage to have notice that their securities will not have the usual priority.

22. When it is proposed to borrow any money on mortgage under the provisions of this Act, the Company shall make known in writing to the intending lender, and shall also make known in any advertisement for such loan, the provisions herein-after contained in sections 51, 52, and 58, and such provisions shall be endorsed in concise terms upon every mortgage deed or certificate of debenture stock granted or issued under the authority of this Act, and such endorsement shall be taken as primâ facie evidence that such lender has had notice of the said provisions.

Application of moneys.

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

A.D. 1871.

First ordinary meeting.

24. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held twice in every year in the months of February or March and August or September respectively, as the directors may appoint.

Advertisements.

25. The newspapers for advertisements shall be any newspaper published and circulated in the county of Clare.

Quorum of meetings of Company.

26. The quorum of every meeting of the Company shall be ten proprietors, holding in the aggregate not less than one twentieth of the nominal capital of the Company.

Number of shareholders who may require an extraordinary meeting.

27. The prescribed number of shareholders who may require the directors to call an extraordinary meeting of the Company shall be ten shareholders, holding in the aggregate not less than one fortieth part of the nominal capital of the Company.

Number of directors.

28. The number of directors shall be five, but it shall be lawful for the Company from time to time to reduce the number, provided that the number be not less than three.

Qualification of directors.

29. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum.

30. The quorum of a meeting of directors shall be three, unless the number of directors is reduced to three, and then and so long as the number shall continue to be three the quorum shall be two.

First directors.

31. Cornelius A. Keogh, Thomas Lucas, John B. Mac Namara, Michael Kenny, and Patrick J. O'Dwyer shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the place of the directors then retiring from office agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained, and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Lands for extraordinary purposes.

32. 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 seven acres.

Powers for compulsory purchases limited.

33. 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.

Period for completion of works.

34. The railways shall be completed within five years from the passing of this Act, and if the railways 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 railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Railways may be made on three-feet gauge.

35. The railways by this Act authorised may be made and maintained on the gauge of three feet.

Power to vary gauge.

36. The Company may, before or after the opening for public traffic of the railways by this Act authorised, with the consent of the Board of Trade, vary the gauge thereof, by substituting any other gauge not exceeding five feet three inches for the herein-before mentioned gauge of three feet.

Power to cross certain roads on the level.

37. Subject to the provisions of "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 of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the roads next herein-after mentioned; (that is to say,)

Number on deposited plan.	Parish.	Description of road.
21	Drumcliff - - -	Public.
10	Dysert - - - -	Ditto.
4	Kilnamona - - -	Old ditto.
20	Kilmanaheen - - -	Ditto.
2	Ditto - - - -	Ditto.
24	Ditto - - - -	Ditto.

Inclination of roads.

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

A.D. 1871.

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

Number on deposited plan.	Parish.	Description of road.	Intended inclination.
7	Kilmanaheen -	Public - -	1 in 18.
35	Kilshanny -	Ditto - -	1 in 16 on one side and level on the other.

Height and span of bridges.

39. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any spans not less than the spans herein-after mentioned in connexion with those roads respectively; (that is to say,)

Number on deposited plan.	Parish.	Description of road.	Span.
22	Drumcliff - -	Public - -	21 feet.
6	Kilnamona - -	Ditto - - -	Ditto.
16	Kilmanaheen -	Ditto - -	Ditto.
57a	Ditto - -	Ditto - - -	Ditto.
7	Ditto - - -	Mail coach - -	Ditto.
2	Ditto - -	Ditto - - -	Ditto.
21	Ditto - - -	Public - -	Ditto.
22	Ditto - -	Ditto - - -	Ditto.
5	Ditto - - -	Ditto - -	Ditto.
19	Ditto - -	Ditto - - -	Ditto.
84	Kilfarboy - -	Ditto - -	Ditto.
6	Kilshanny - -	Ditto - - -	Ditto.
14	Ditto - -	Ditto - -	Ditto.

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

40. 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, chapter twenty, a sum of four thousand nine hundred and fifty pounds, being five per centum upon the amount of the estimate in respect of the said railways authorised by this Act, has been deposited with the Court of Chancery in Ireland in respect to the application to Parliament for this Act: Be it enacted that, notwithstanding anything contained in the said recited Act, the said sum of four thousand nine hundred and fifty pounds so deposited as aforesaid in respect of the application for this Act 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 sur-

vivor of them, unless the said Company shall, previously to the expiration of the period limited by this Act for completion of the railways hereby authorised to be made, either open the said 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 said Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the said Company shall either have opened the said 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 said sum of money 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 said recited Act to the contrary notwithstanding.

Application of deposit.

41. The said sum of money 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 said 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 this Act, and for which injury or loss no compensation, or inadequate compensation, shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Court of Chancery in Ireland may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall 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 survivor or survivors of them: Provided that, until the said sum of money 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

A.D. 1871.

such warrant or order as aforesaid, or the survivors or survivor of them.

Tolls for use of railways and carriages:

42. The Company may demand and take for the use of the railway, and for the supply of carriages or trucks, any tolls not exceeding the following; (that is to say,)

Passengers:

With respect to passengers:

For every person conveyed in or upon a carriage on the railway, not exceeding twopence per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum not exceeding one penny halfpenny per mile:

Animals:

With respect to animals:

Class 1. For every horse, mule, ass, or other beast of draught or burden, and for every ox, cow, bull, or neat cattle conveyed in or upon a carriage upon the railway, not exceeding threepence per mile; and if conveyed in or upon a carriage belonging to the Company, an additional sum not exceeding one penny per mile:

Class 2. For every calf, pig, sheep, lamb, or other small animal, conveyed in or upon a carriage upon the railway, not exceeding one penny per mile; and if conveyed in or upon a carriage belonging to the Company, an additional sum not exceeding one farthing per mile:

Goods.

With respect to goods and other things:

Class 3. For coals, cinders, compost, dung, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, not exceeding one penny per ton per mile; and if conveyed in a carriage belonging to the Company, an additional sum not exceeding one halfpenny per ton per mile:

Class 4. For all coke, culm, and charcoal, and all stones for building, pitching, and paving, all bricks, tiles, slates, clay, sand, ironstone and iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron and iron castings, not manufactured into utensils or other articles of merchandise, not exceeding one penny halfpenny per ton per mile; and if conveyed in a carriage belonging to the Company, an additional sum not exceeding one halfpenny per ton per mile:

Class 5. For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, deals, stones, metals (except iron), nails, anvils, vices, and chains, not exceeding twopence per ton per mile; and if conveyed in carriages belonging to the Company, an additional sum not exceeding three farthings per ton per mile:

Class 6. For all fish, cotton and other wools, drugs, manufactured woods, and all other wares, merchandise, articles, matters, or things, not exceeding threepence per ton per mile; and if conveyed in carriages belonging to the Company, a further sum not exceeding one penny per ton per mile:

Class 7. For every carriage, of whatever description, not being adapted and used for travelling on a railway, if not weighing more than one ton, not exceeding fivepence per mile; and for every such carriage, if weighing more than one ton, a further sum not exceeding one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton above one ton; and if conveyed on a truck or platform belonging to the Company, an additional sum not exceeding twopence per mile.

Toll for locomotive power.

43. The Company may demand and take for the supply of engines for drawing or propelling carriages or trucks on the railway any sum not exceeding one penny per mile for each passenger, animal, or ton of goods, or other articles, matters, or things.

Maximum rates of charge:

44. The maximum rates of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and of carriages, and of locomotive power, and every other expense incidental to such conveyance, shall not exceed the following sums; (that is to say,)

For passengers:

For every passenger conveyed in a first-class carriage, the sum of threepence per mile:

For every passenger conveyed in a second-class carriage, the sum of twopence per mile:

For every passenger conveyed in a third-class carriage, forming part of a mixed train, the sum of one penny farthing per mile:

For animals and goods.

And the maximum rates of charge to be made by the Company for the conveyance of animals and goods, including the toll for the use of the railway, and of carriages, and for locomotive power, and every other expense incidental to such conveyance, shall not exceed the sums following; (that is to say,)

For every animal in class 1, not exceeding fourpence per mile:

For every animal in class 2, not exceeding twopence per mile:

For everything in class 3, not exceeding one penny halfpenny per ton per mile:

For everything in class 4, not exceeding threepence per ton per mile:

For everything in class 5, not exceeding threepence three farthings per ton per mile:

For everything in class 6, not exceeding fivepence per ton per mile:

A.D. 1871.

For everything in class 7, not weighing more than one ton, not exceeding eightpence per mile:

And if weighing more than one ton, not exceeding an additional twopence for every quarter of a ton or fractional part of a quarter of a ton above one ton.

Tolls for small parcels.

45. Notwithstanding any other tolls by this Act prescribed, the Company shall not, for the carriage of small parcels on the railway, demand and take any tolls exceeding the following; (that is to say,)

For any parcel not exceeding seven pounds in weight, fourpence:

For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight, ninepence:

And for parcels exceeding fifty-six pounds in weight but not exceeding five hundred pounds in weight the Company may demand and take any sum which they think fit:

Articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

Tolls for single articles of great weight.

46. With respect to single articles of great weight, notwithstanding the rate of tolls by this Act prescribed, the Company may demand and take the tolls following; (that is to say,)

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber, or stone, or rope, or other single article, the weight of which, including the carriage, exceeds four tons but does not exceed eight tons, the Company may demand any sum not exceeding sixpence per ton per mile; and if conveyed in or upon a carriage belonging to the Company, an additional sum not exceeding one penny per ton per mile; and if propelled by an engine belonging to the Company, a further sum not exceeding one penny per ton per mile:

For the carriage of any boiler, cylinder, or single piece of machinery, or a single piece of timber, stone, or rope, or other single article, the weight of which, with the carriage, exceeds eight tons, the Company may demand and take any sum which they think fit.

Regulations as to the tolls.

47. The following provisions and regulations shall be applicable to the fixing of the tolls; (that is to say,)

For a fraction of a ton the Company may demand and take toll according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

With respect to all articles except stone and timber, the weight shall be determined by the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity:

For articles of persons conveyed on the railway for a less distance than six miles the Company may demand tolls as for six miles:

For a fraction of a mile beyond six miles, or beyond any greater number of miles, the Company may demand tolls on merchandise for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile; and in respect of passengers, every fraction of a mile beyond an integral number of miles shall be deemed a mile.

Company may take increased charges by agreement.

48. Nothing herein contained shall prevent the Company from taking any increased charge, over and above the charges hereinbefore limited, for the conveyance of animals or goods of any description, by agreement with the owners of or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passengers trains.

Passengers luggage.

49. Every passenger travelling on the railway may take with him his ordinary luggage, not exceeding one hundred and fifty pounds in weight for each first-class passenger, one hundred pounds in weight for each second-class passenger, and sixty pounds in weight for each third-class passenger, without any charge being made for the carriage thereof.

Terminal station.

50. No station shall be considered a terminal station in regard to any goods conveyed on the railway, unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat by the consignee.

Baronies to contribute.

51. If and whenever after the opening of the railway No. 1 by this Act authorised for public traffic, and during the period of

A.D. 1871.

twenty-two years next after such opening, the receipts, after deducting the working expenses from the said railway No. 1, to be ascertained in manner herein-after provided for, shall not amount to a sum equal to a dividend at the rate of four pounds per centum per annum on fifty thousand pounds, part of the capital of the Company, specially applicable to the said railway No. 1, then the sum or amount required to make up such dividend as aforesaid shall become payable half-yearly by the baronies of Islands, Inchiquin, Corcomroe, and Ibrickane, all in the county of Clare, rateably and in the proportions herein-after provided for: Provided always, that so much of the said receipts from the said railway No. 1 (after deducting the working expenses as aforesaid) as shall be necessary for such purpose shall, during the said period, be applied to the payment of the said dividend, in priority to any sum due for principal or interest on any mortgage deed, bond, or debenture stock, or otherwise howsoever, or to any dividend upon any other portion of the capital of the Company.

Moneys paid by baronies to be a first charge on railway No. 1 and income thereof.

52. If any moneys shall have been paid or contributed by the said baronies under the provisions of this Act, all such moneys, together with the costs and expenses of levying the same, shall be, as and from the dates of the respective payments of the same, charged upon the said railway No. 1 and the receipts from the same, after deducting the working expenses, and shall be so charged in priority to any debt or demand created by mortgage deed or bond, or otherwise howsoever, and the said moneys so charged shall be payable to the treasurer for the time being of the said county, to be applied by him in relief of the barony or baronies which shall have contributed the same.

For ascertaining amount to be paid by each barony, &c.

53. For the purpose of ascertaining such receipts from railway No. 1, and the proportions in which the baronies shall pay the said half-yearly sums, and during such time as the same shall be payable, and for other the purposes to be executed by the arbitrators, as herein-after mentioned, the Board of Trade, upon the request of the Company, may from time to time, by warrant under the hand of their secretary for the time being, appoint as arbitrators the county surveyor for the time being of the county of Clare, and two other persons to be selected by the Board of Trade, and may supply the place of any arbitrator dying, resigning, or refusing or failing to act, or becoming incapacitated, and such arbitrators shall from time to time, by their certificate in writing, ascertain and determine the amount of such receipts in each half year applicable to the payment of the said dividend as herein-before provided, and also assess and

determine the relative proportions in which such half-yearly sums shall be paid and made up by the baronies, such arbitrators taking into consideration the benefit or supposed benefit, immediate or prospective, which such baronies may respectively in their opinion have derived or be likely to derive from the formation and opening of the said railway No. 1; and every certificate of such arbitrators, under their hands or (in case all the said arbitrators shall be unable to agree) under the hands of any two of them, shall be in all respects final and binding on the said baronies, and from and immediately after each delivery of any certificate the baronies, and all lands, hereditaments, or premises therein respectively, shall be and are hereby charged and made chargeable with the payment of such half-yearly sums in the several proportions specified and set forth in such certificate, and every such certificate, and a duplicate thereof if required, shall be delivered to the Company upon the request and upon payment by them to such arbitrators of such remuneration (if any) for their trouble in regard thereto as the Board of Trade shall determine.

Accounts of receipts to be rendered.

54. For the purpose of ascertaining the receipts from the said railway No. 1, the working expenses thereof, and the profits of the said railway No. 1, if any, applicable to the payment of the dividend as aforesaid on the railway and the expenditure thereof, the Company shall from time to time, on or before the first day of May and the first day of November in every year, make out and render to the arbitrators a full, true, and distinct account of all the receipts, of every nature and kind, for the then preceding half year ending the thirty-first day of December and thirtieth day of June in each year, arising in any manner from the said railway No. 1, and of the expenditure thereof, which account the said arbitrators shall and they are hereby authorised and empowered to examine with the documents and vouchers evidencing the same, and all books, papers, and accounts in the custody and control of the Company relating to the business of the Company; and all such accounts, documents, vouchers, books, and papers shall be kept by the Company, who shall, upon the request of the said arbitrators, from time to time produce the same to such arbitrators for examination; and such arbitrators may (if they think fit) employ one actuary or accountant to assist them in such examination from time to time, at the cost and expense of the Company; and the Company shall, so long as the said barony contributions may continue, keep proper and correct books of account to show the receipts and profits on the railways and the expenditure thereof, to which books of account the said arbitrators shall have at all reasonable times access, and from which they may at all times take extracts; and the Company shall, during

A.D. 1871.

the said period, send duplicate returns to the said arbitrators of the accounts which they are bound by any Act of Parliament now in force or that may hereafter be in force to transmit to the clerks of the peace; and the said arbitrators shall adjust and balance the said accounts, and as to all matters relating to the said accounts, or what shall be considered as gross receipts from traffic or net profits from traffic, their decision shall in all respects be final and conclusive on all parties.

Sums mentioned in certificates to be presented by grand jury and paid by treasurer.

55. The Company shall from time to time deliver such certificate or a duplicate thereof to the secretary of the grand jury of the county of Clare, who shall lay such certificate or duplicate thereof before the grand jury of that county at the assizes next after he shall have received the same; and it shall be lawful for such grand jury, and they are hereby required from time to time and without application to presentment sessions, to present the sum mentioned in every such certificate relating to the baronies to be raised and levied off such baronies, and the same shall be assessed, raised, and levied in the like manner as any presentment made under the authority of an Act passed in the 6th and 7th years of the reign of His late Majesty King William IV., cap. 116, and any Act or Acts amending the same; and the treasurer of such county, out of the first moneys collected and remaining in his hands after repayment of Government advances, gaol expenses, and salaries of public officers payable by him, shall pay the sum so presented by the grand jury unto the treasurer of the Company, or in such other manner as the Company shall direct; and if the grand jury of the said county shall fail to present the sum, or any part thereof, contained in any such certificate relating to such baronies, the treasurer of the said county shall and he is hereby required to insert such sum or such omitted part thereof in his warrant for raising the moneys presented at the same assizes, as if such sum had been duly presented by such grand jury to be raised in manner herein-before mentioned off such baronies as aforesaid, and the same shall be raised and levied off such baronies accordingly as if the same had been so presented, and the said treasurer shall pay over the amount when by him received as herein-before provided as if such money had been presented by such grand jury.

Conditions of bond by collectors of grand jury.

56. The defeasance of every bond of a collector of grand jury cess within any or either of the baronies liable to the barony contributions to be hereafter given or executed, by way of security for duly collecting and paying public money, shall contain a condition for his duly collecting and paying to the treasurer of the said county on or before each next succeeding assizes all such money as he shall

from time to time be authorised to levy under this Act, and such bonds shall be subject to all provisions now applicable to bonds given or executed by collectors of grand jury cess.

Remuneration to collectors.

57. The grand jury of the said county of Clare shall also present such sum of money, to be levied off every such barony as aforesaid, and to be paid to any such collector as aforesaid as his remuneration for collecting such assessment, as is payable in the case of the collection of grand jury cess.

Cessation of barony contributions.

58. After the expiration of twenty-two years from the opening of the railway No. 1 for public traffic, or when and as soon as the Company by deed under their common seal (which, with the consent in writing of the holders for the time being of the said fifty thousand pounds or such part thereof as shall have been subscribed for, they are hereby empowered to execute) shall have released the baronies from all further liability (whichever shall first happen), the barony contributions shall cease; and from and after the expiration of that period or the delivery of such deed, as the case may be, all the provisions of this Act contained in sections 22, 51, 52, 53, 54, 55, 56, 57, and 59 shall for ever cease and determine, except as to the sums respectively which the said baronies shall then be liable to pay or which shall be then due to the said baronies and charged upon railway No. 1, in respect of which the said provisions shall, until the same respectively shall have been paid, remain in full force and effect; and when after the expiration of the said period or the delivery of such deed, as the case may be, the sum due to the said baronies shall have been paid, the debenture and other creditors of the Company shall in respect of their debts be entitled to and have the same priority as if the said provisions had not been contained in this Act.

As to actions by treasurer of county.

59. In all cases where any moneys are under the provisions of this Act made payable by the Company to the treasurer for the time being of the said county or to the baronies, such treasurer, in default of payment thereof by the Company, may recover the same with full costs of suit by action in any court of competent jurisdiction; and in any such action the treasurer for the time being of the said county shall be the nominal plaintiff, and as such entitled to sue on behalf of the county, and no such action shall abate or be discontinued by reason of the death, removal, or resignation of any such treasurer; and all moneys received or recovered by such treasurer under the provisions of this Act shall be carried by him to the credit of the baronies in proportion to the amounts paid by them respectively under the provisions of this Act.

A.D. 1871.

Saving rights of the Crown in the foreshore.

60. Nothing contained in this Act or in any of the Acts herein referred to shall authorise the said 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, 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 the said Act or Acts 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.

Interest not to be paid on calls paid up.

61. 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 advanced by him beyond the amount of the calls actually made as is in conformity with The Companies Clauses Consolidation Act, 1845."

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

62. 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 Acts.

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

64. The costs and expenses of obtaining and passing this Act, and preparatory or incidental thereto, shall be paid by the Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1871.