CHAP. xxxvii.

An Act to enable the Great Northern and Western (of Ireland) Railway Company to extend their Railway to Ballina; and for other purposes. [25th May 1871.]

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Recital of Acts as to Great Northern and Western (of Ireland) Railways.

WHEREAS by "The Great Northern and Western of Ireland Railway Act, 1857," the Great Northern and Western (of Ireland) Railway Company, in this Act called "the Company," were incorporated:

And whereas the following Acts have also been passed relating to the Company; (namely,)

The Great Northern and Western (of Ireland) Railway Act, 1858;
The Great Northern and Western (of Ireland) Railway Act, 1859;
The Great Northern and Western (of Ireland) Railway Act, 1860;
The Great Northern and Western (of Ireland) Railway Act, 1861;
The Great Northern and Western (of Ireland) Railway Act, 1862;
The Great Northern and Western (of Ireland) Railway (Running Powers) Act, 1864;
The Great Northern and Western (of Ireland) Railway (Capital) Act, 1864;
The Great Northern and Western (of Ireland) Railway Act, 1866;
The Great Northern and Western (of Ireland) Railway (Westport Quay Line) Act, 1870;
The Great Northern and Western (of Ireland) Railway (Lease) Act, 1870:

And whereas by "The Great Northern and Western (of Ireland) Railway Act, 1862," the Company were authorised to make a railway from Manulla to Ballina in the county of Mayo:

And whereas the Company completed and opened for traffic the portion of the said railway from its commencement at Manulla aforesaid to the town of Foxford, but were unable, from want of

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funds, to complete the remaining portion to Ballina within the time limited by the Act of 1862, and extended by the Act of 1866; and they consequently applied to the Board of Trade, under the provisions of "The Railways Abandonment Act, 1850," and "The Railway Companies Act, 1867," and obtained a warrant from the said board authorising the abandonment of such remaining portion:

And whereas the extension of the railways of the Company to Ballina would be of great local advantage:

And whereas the financial condition of the Company has since the grant of the said warrant improved, and the Company are now in a position to undertake the completion of the said railway, and they desire to obtain renewed powers for its construction:

And whereas plans and sections of a railway in extension of the railway of the Company to Ballina (and herein-after referred to as the Ballina Railway), showing the line and levels thereof, and books of reference to such plans, have been deposited with the clerk of the peace for the county of Mayo, and such plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas by "The Great Northern and Western of Ireland Railway (Lease) Act, 1870," the then undertaking of the Company was leased to the Midland Great Western Railway of Ireland Company (in this Act called "the Midland Company") for a term of nine hundred and ninety-nine years, at a rental clear of all deductions whatsoever (except property tax) at the rate of twenty-eight thousand five hundred pounds per annum for the first year, and rising by yearly increments to the sum of thirty-three thousand five hundred pounds for the year one thousand eight hundred and eighty-five, and at that sum for every year thenceforth to the remainder of the term, and the same rental will be further augmented by the increased rental in respect of the Ballina Railway, as in this Act provided; and it is expedient that the Ballina Railway, when completed, should in like manner be leased to the Midland Company, and that the provisions of "The Great Northern and Western (of Ireland) Railway (Lease) Act, 1870," should be extended so as to include the Ballina Railway:

And whereas the Company have, under the powers of the recited Acts, borrowed, or are authorised to borrow, on mortgage of their undertaking, moneys not exceeding in the whole the sum of one hundred and seventy-four thousand pounds, and have also created the following preference shares or stock; (that is to say,)

	£
Irredeemable five per cent. preference stock -	- 36,350
New five per cent. preference stock -	- 66,580
New six per cent. preference stock -	- 30,000
Total	- £132,930

And the Company will for the completion of the Ballina Railway, and for other purposes of their undertaking, require to raise the further sum of fifty thousand pounds:

And whereas the ordinary share or stock capital of the Company is three hundred and ninety-one thousand and seventy pounds, whereof three hundred and eighty-one thousand nine hundred and seven pounds eighteen shillings and sixpence has been paid up:

And whereas for the purposes of meeting the payments under the borrowing powers as they respectively fall due, and for purchasing up and paying off the said preference stocks, in order to simplify the capital arrangements of the Company, and for raising the further sum required, it is expedient that the Company be authorised to create and issue, as and when required for the purposes aforesaid, debenture stock to an amount not exceeding in the whole three hundred and sixty thousand pounds:

And whereas the objects and 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:

Short title.

1. In citing this Act for any purpose whatever it shall be sufficient to use the expression "The Great Northern and Western (of Ireland) Railway Act, 1871."

Provisions of general Acts or portions thereof herein named incorporated.

2. "The Railways Clauses Consolidation Act, 1845," "The Railways Act (Ireland), 1851," Part I. of "The Railways Clauses Act, 1863," relating to construction of a railway, "The Lands Clauses Consolidation Act, 1845," so far as the same is consistent with "The Railways Act (Ireland), 1851," as amended by "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and also the clauses and provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters; (that is to say,)

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With respect to the distribution of the capital of the Company into shares;

With respect to the transfer or transmission of shares;

With respect to the payment of subscriptions and the means of enforcing the payment of calls;

With respect to the forfeiture of shares for non-payment of calls;

With respect to the remedies of creditors of the Company against the shareholders;

With respect to the borrowing of money by the Company on mortgage or bond;

With respect to the conversion of the borrowed money into capital; and

With respect to the consolidation of the shares into stock;

and Part II. of "The Companies Clauses Act, 1863," relating to additional capital, shall be 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 shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" shall mean the Great Northern and Western (of Ireland) Railway Company; the expression "the Midland Company" shall mean the Midland Great Western Railway (of Ireland) Company; the expression "the Act of 1862" shall mean the Great Northern and Western (of Ireland) Railway Act, 1862; the expression "the Act of 1870" shall mean "The Great Northern and Western (of Ireland) Railway Lease Act, 1870;" the expression "the railway" shall mean the railway by this Act authorised, or any part thereof.

Power to make railway according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the Ballina Railway 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 said plans, and described in the deposited books of reference, as may be required for that purpose. The Ballina Railway by this Act authorised is—

A railway nine miles one furlong and two chains in length, commencing by a junction with the railway of the Company at the termination of the Foxford line near the Foxford station, in the townland of Clossaghroe in the parish of Ballynahaglish, and terminating in the townland of Ballina at or near the point

where Cockle Street joins the main public road leading from Castlebar and Foxford to Ballina.

As to deposit of plans with clerks of unions.

5. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that certificates of any omissions, mis-statements, or erroneous descriptions in certain plans and books of reference therein referred to should be deposited with the postmaster of the post towns in or nearest to the several parishes in Ireland in which the lands affected thereby should 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 should 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 the expression "clerks of the unions within which such parishes are included in Ireland," or the words "clerk of the union," as the case may be, had been used and inserted in such Act in lieu of the expression "the postmaster of the post towns in or nearest to such parishes in Ireland," or in lieu of the word "postmaster," as the case may be.

Lands for extraordinary purposes.

6. 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 five acres.

Power to cross roads on the level.

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

No. on Plan.	Townland.	Parish.	Description of Road.
17	Coolcronann -	Ballynahaglish -	Public road.
15	Shanclogh -	Ballynahaglish -	Public road.
52	Ballynaraha -	Ballynahaglish -	Public road.

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Height of bridges.

8. For the purpose of carrying the railway over the public roads respectively numbered on the plans deposited for the purposes of this Act 14 in the townland of Rahans, and 14 in the townland of Traheen, in the parish of Ballynahaglish, it shall be lawful for the Company to construct bridges which shall leave a clear height or headway over the whole of the said roads of not less than twelve feet.

Powers for compulsory purchases limited.

9. The powers of the Company for the compulsory purchase or taking of lands for the purposes of this Act shall not be exercised after the expiration of one year from the passing of this Act.

Period for completion of works.

10. The Ballina Railway shall be completed within five years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the Ballina Railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Imposing penalty unless railway is opened.

11. If the Company fail within the period limited by this Act to complete the Ballina 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 Ballina Railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the sum of fifty thousand pounds, being the estimated cost of the Ballina Railway, 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, and in the same manner as the penalty provided in the third section of the Act seventeen and eighteen Victoria, chapter thirty-one, known as "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 the said third section of the Act seventeen and eighteen Victoria, chapter thirty-one, to an account to be opened in the name and with the privity of the Accountant General of the Court of Chancery in Ireland in the bank named in such order, and shall not be paid thereout except as hereinafter 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 the Ballina Railway 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.

Application of penalty.

12. 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 may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the Ballina Railway 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 sum or sums of money so recovered by way of penalty as aforesaid shall have 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 be paid to the Company.

Lease of Ballina line.

13. Immediately on the completion of the Ballina Railway, sufficiently for the safe conveyance of passengers, in accordance with the provisions of the Act of the fifth and sixth Victoria, chapter fifty-five, for the better regulation of railways, and for the conveyance of troops, the Ballina Railway shall, subject to the provisions herein-after contained, be deemed part of the railway undertaking of the Company, as mentioned, described, and intended by and within the meaning of the Act of 1870, and all the provisions of that Act (except as to the amount of rent which shall thenceforth be payable by the Midland Company to the Great Northern Company) shall be applicable thereto, as fully to all intents and purposes as though the Ballina Railway had been completed before the passing of that Act, and had been expressly mentioned in the second section thereof: Provided always, notwithstanding such completion, that if any difference shall arise between the Company and the Midland Company, whether the sufficiency or completeness of the works of the said railway, or of the stations, booking-offices, approaches, sidings, platforms, turntables, watering-places, road screens, gate lodges, and other conveniences and accommodations required for the convenient and efficient working of the same, are not at the time of such completion at least equal in every respect to the sufficiency and completeness of the railway undertaking mentioned or referred to in the third section of the Act of 1870, as that railway undertaking was on the first day of November one thousand eight hundred and seventy, such difference shall be determined by Thomas Elliott Harrison, Civil Engineer, whom failing, by an arbitrator to be appointed, on the application of either of the Com-

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panies, by the Board of Trade, whose decision shall be final and binding, and failing the execution by the Company, within the time limited by the arbitrator, of the works (if any) which the arbitrator may direct, the Midland Company may forthwith execute the same, and deduct the cost thereof from the rent payable by them to the Company as provided by this Act, and it shall be in the power of the arbitrator to order and direct such abatement of the said rent as may appear to him just by reason of the insufficiency or incomplete state of any of the works and conveniences of the said railway at and after the date from which the said rent begins to run, in pursuance of this Act, until the execution of the works so directed by him.

Rents to be paid by Midland Company.

14. Immediately on such completion of the Ballina Railway, but subject always to the proviso in the immediately preceding enactment contained, the Midland Company shall pay, in addition to the rent reserved and mentioned in the fourth section of the last-mentioned Act, a rent as follows; that is to say, for the portion of the year ending the thirty-first day of December then next, at the rate of two thousand seven hundred and thirty-seven pounds ten shillings per annum; and for the next year, and for the several following years thereafter, the amounts set opposite to each year; namely,

			£	*s.*	*d.*
Next or 1st	following year	thereafter - -	2,767	3	0
,, 2nd	,,	,, - -	2,800	16	0
,, 3rd	,,	,, - -	2,834	9	0
,, 4th	,,	,, - -	2,872	2	0
,, 5th	,,	,, - -	2,905	15	0
,, 6th	,,	,, - -	2,939	8	0
,, 7th	,,	,, - -	2,973	1	0
,, 8th	,,	,, - -	3,006	14	0
,, 9th	,,	,, - -	3,040	7	0
,, 10th	,,	,, - -	3,074	0	0
,, 11th	,,	,, - -	3,107	13	0
,, 12th	,,	,, - -	3,141	6	0
,, 13th	,,	,, - -	3,174	19	0

and for the 14th year thereafter, and for every succeeding year during the term of the lease, there shall be one rent of thirty-six thousand seven hundred and eighteen pounds in lieu of the two rents reserved in the Act of 1870 and this Act; and all the provisions of the Act of 1870 relating to the rent mentioned and reserved in the fourth section of that Act shall be applicable to the rent herein mentioned and reserved.

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

20. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made from the provisions of any general Act relating to railways, or the better or 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 this Act.

Expenses of Act.

21. 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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Power to purchase preference shares or stock.

15. The Company may, from time to time, by agreement with the respective holders thereof, purchase, redeem, and pay off all or any of the said preference shares or stock, provided that the terms of such purchase, redemption, or payment shall not exceed the sum which the annual dividends payable on such shares respectively, capitalised at four per centum per annum, would represent, and that any shares so purchased, redeemed, or paid off shall be cancelled, and the power in the recited Acts to raise capital shall by the amounts of the shares or stock cancelled be reduced.

Power to issue debenture stock.

16. The Company may from time to time raise by the creation and issue of debenture stock, for the purposes of the Ballina Railway and other the purposes of the Company, moneys not exceeding the said sum of fifty-three thousand and seventy pounds, and also, as and when required for the purpose of redeeming and paying off their mortgages and bonds, and in lieu of the exercise of their borrowing powers, moneys not exceeding the said sum of one hundred and seventy-four thousand pounds, and also, as and when required for the purpose of purchasing or paying off the preference shares or stock so created and issued, moneys not exceeding the said sum of one hundred and thirty-two thousand nine hundred and thirty pounds, making together a sum not exceeding three hundred and sixty thousand pounds.

Saving rights of Midland Great Western Railway (of Ireland) Company.

17. Notwithstanding anything in this Act contained or the exercise by the Company of any of the powers hereby granted, the right secured to the Midland Great Western Railway (of Ireland) Company under the thirtieth section of "The Great Northern and Western (of Ireland) Railway Act, 1861," shall be and remain in full force and effect.

Interest not to be paid on calls paid up.

18. 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.

19. 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.