CHAP. ciii.

An Act for vesting the Undertaking of the Cork and Limerick Direct Railway Company in the Great Southern and Western Railway Company; and for other purposes. A.D. 1871.

[13th July 1871.]

WHEREAS by "The Cork and Limerick Direct Railway Act, 1860," the Cork and Limerick Direct Railway Company (in this Act called the "Cork Company") were incorporated, and were authorised to make a railway from the Great Southern and Western Railway, near Charleville, to the Limerick and Foynes Railway, near Patrick's Well, and also a short line of railway at Limerick: 23 & 24 Vict. c. c.

And whereas by the said Act the Cork Company were authorised to raise one hundred thousand pounds by shares and thirty-three thousand pounds by borrowing:

And whereas by "The Cork and Limerick Direct Railway Act, 1865," the Cork Company were authorised to issue preference shares in lieu of cancelled shares, and to create debenture stock: 28 & 29 Vict. c. clvi.

And whereas the Cork Company have, under the provisions of the said Act, raised seventy-one thousand three hundred and seventy-five pounds by ordinary shares and eleven thousand eight hundred and fifty pounds by preference shares, and they have borrowed on mortgage and have raised by the issue of debenture stock the sum of thirty-three thousand pounds, and they are indebted to their bankers in a sum of five thousand six hundred and thirty-five pounds:

And whereas it would conduce to the public convenience if the undertaking of the Cork Company were transferred to and vested in the Great Southern and Western Railway Company (in this Act called "the Company"), and the said companies respectively have agreed that such transfer and vesting should be effected upon the terms herein-after set forth:

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And whereas it is expedient, when such transfer and vesting has been effected, that the Cork Company should be dissolved:

And whereas it is expedient that the Company should be authorised to purchase certain additional lands in the counties of Tipperary, Kerry, and Limerick:

And whereas plans of the said lands, with books of reference thereto, have been deposited with the respective clerks of the peace for the counties of Tipperary, Kerry, and Limerick, which plans and books of reference are in this Act referred to as the deposited plans and books of reference respectively:

And whereas it is expedient that the Company should be authorised to apply their existing funds, or any moneys which they may have power to raise, to the purposes of this Act, and for the same purposes to create additional capital in their undertaking:

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

Short title.

1. This Act may be cited for all purposes as "The Great Southern and Western Railway and Cork and Limerick Direct Railway Transfer Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," "The Companies Clauses Consolidation Act, 1845," Part II. (relating to additional capital) and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," Part III. (relating to working agreements) and Part V. (relating to amalgamation) of "The Railways Clauses Act, 1863," except where expressly varied by this Act, are incorporated with and form part of this Act.

Vesting in Company undertaking of Cork Company.

3. Upon the first day of January one thousand eight hundred and seventy-one, the undertaking of the Cork Company, and the several railways and branches, stations, sidings, approaches, buildings, fixed plant, and all other works, whether complete or incomplete, and all the lands and other the property, estate, moneys, and assets of the Cork Company, shall be and are hereby absolutely vested in the Company as part of their undertaking, subject to all the

obligations and liabilities of the Cork Company under the recited Acts, or any of them, with respect to the maintenance, repair, management, regulation, working, and user of the vested property or any part thereof; and the Cork Company shall thereupon be dissolved, except for the purpose of winding up its affairs; and the Cork Company shall be deemed to be amalgamated according to the true intent and meaning of Part V. of "The Railways Clauses Act, 1863."

Company may exercise powers of Cork Company.

4. Immediately upon the dissolution of the Cork Company under the last preceding enactment, the Company may and shall exercise and fulfil in their own name and under their own seal, and in the names and under the hands of their directors, officers, or servants, all the rights and powers of the Cork Company, whether with reference to the acquisition of lands, the construction of works, the use of other railways, the borrowing of money, the levying of tolls, rates, and charges, or otherwise, in like manner as those rights, powers, liabilities, and obligations are authorised and required to be exercised and fulfilled by that Company.

Certain agreements and indentures to remain in force.

5. Notwithstanding anything in this Act, the agreements, indentures, and award herein-after specified shall remain and be of full force and effect, and, as from the first day of January one thousand eight hundred and seventy-one, shall be read and construed as if, instead of the Cork Company and the name of that Company, the Company had been a party thereto and had been named therein:

The agreement made the fifth day of March one thousand eight hundred and sixty between Ebenezer Pike, Francis Lyons (Member of Parliament), and William James Shaw, all of the city of Cork, merchants, directors appointed under a certain indenture dated the tenth day of December one thousand eight hundred and fifty-nine, made between the subscribers to the undertaking called the Cork and Limerick Direct Railway and certain trustees therein named for the purpose of managing the affairs of the said undertaking, of the first part, and the Limerick and Foynes Railway Company of the second part:

The indenture made the sixth day of August one thousand eight hundred and sixty between the Cork and Limerick Direct Railway Company of the one part, and the Limerick and Foynes Railway Company of the other part:

The indenture made the eleventh day of June one thousand eight hundred and sixty-two between the Cork and Limerick Direct Railway Company of the one part, and the Limerick and Foynes Railway Company of the other part:

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The agreement made the twenty-first day of May one thousand eight hundred and sixty-two between the Waterford and Limerick Railway Company of the one part, and the Cork and Limerick Direct Railway Company of the other part:

The award of Thomas Elliott Harrison, of 27, Great George Street, in the city of Westminster, in the matter of the arbitration between the Waterford and Limerick and Cork and Limerick Direct Railway Companies, dated the twenty-third day of May one thousand eight hundred and sixty-two.

Terms of vesting.

6. Within three months after the passing of this Act, the Company shall comply with the following terms and conditions; namely,

They may and shall issue to the holders of the said sum of seventy-one thousand three hundred and seventy-five pounds ordinary stock in the Cork Company, in proportion to their respective holdings, ordinary stock of the Company to an amount equal to sixty per centum of the amount of such stock of the Cork Company:

They shall assume and may, with the consent of the holders thereof, redeem and pay off the mortgages or debentures of the Cork Company to the extent of twenty-five thousand eight hundred pounds, and shall from time to time pay all interest arising thereon:

They shall assume and, with the consent of the holders thereof, may redeem and pay off the debenture stock of the Cork Company to the extent of seven thousand two hundred pounds, and shall pay the dividends from time to time accruing thereon:

They may, with the consent of the holders thereof, purchase and pay off at par preference shares in the capital of the Cork Company to any amount not exceeding eleven thousand eight hundred and fifty pounds:

The Company shall pay any sum not exceeding five thousand six hundred and thirty-five pounds to the National Bank, such sum being the amount in which the Cork Company are indebted to the said bank.

Substituted stock of the Company to be upon the same trusts, &c.

7. The stock in the capital of the Company so issued shall remain and be vested in the person or persons to whom it is issued, upon the same trusts and subject to the same powers, provisions, declarations, agreements, charges, liens, and incumbrances as at the time of the issue thereof affect the share or stock in the Cork Company in substitution for which the stock in the capital of the Company is issued, and so as to give effect to, and not revoke, any testamentary disposition of or affecting such share or stock.

Certificate of substituted stock to be issued.

8. A certificate of the stock in the capital of the Company issued in substitution for any share or stock in the Cork Company shall be issued to the respective holders of such existing shares or stock free of any charge in respect thereof, but the Company shall not be required to issue any such certificate unless and until the certificate of the share or stock in the Cork Company has been delivered up to be cancelled, or satisfactory evidence of its loss or destruction has been given to the Company.

Company may issue debenture stock in lieu of mortgages on debenture stock of Cork Company.

9. The Company from time to time may create and issue, to any extent not exceeding thirty-three thousand pounds, debenture stock in their own undertaking, in exchange for or in lieu of the granting or renewal of mortgages and bonds or in substitution for debenture stock of the Cork Company.

Power to acquire additional lands.

10. Subject to the provisions of this Act, the Company may from time to time enter upon, take, use, and appropriate, for the purposes of their undertaking, all or any of the lands following delineated upon the deposited plans and described in the deposited books of reference; (that is to say,)

Certain lands in the townland of Golden Garden, in the parish of Kilpatrick and county of Tipperary, adjoining their railway:

Certain lands in the townland of Moyeightragh and Ballydribbeen, in the parish of Killarney and county of Kerry, adjoining their railway:

Certain lands in the townland of Tullovin, in the parish of Anhid, and in the townland of Tullovin, in the parish of Croom, in the county of Limerick, adjoining the Cork and Limerick Direct Railway.

Powers for compulsory purchases limited.

11. 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.

Power to Company to raise additional capital by creation of shares.

12. The Company from time to time may raise by the creation and issue of new shares such sums of money as they shall think necessary, not exceeding ninety thousand pounds, exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament, and the Company may create and issue such shares either wholly or partially as ordinary, or wholly or partially as preferential shares, as they may think fit.

Power to borrow on mortgage.

13. The Company may from time to time borrow on mortgage any sum not exceeding in the whole thirty thousand pounds, in addition to the sums which they are or may be authorised to borrow

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by any other Act or Acts of Parliament, but no part thereof shall be borrowed until shares for the whole of the sum by this Act authorised to be raised by shares shall have been issued and accepted, and one half of such sum shall have been paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that shares for all the capital which the Company are by this Act authorised to raise by shares have been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such shares were issued bonâ fide and are held by the persons to whom the same were issued or their assigns, and that such persons 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.

For appointment of a receiver.

14. The mortgagees of the Company may enforce payment of 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 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 three thousand pounds in the whole.

Existing mortgages to have priority.

15. All mortgages and bonds 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 bonds, have priority over any mortgages to be granted by virtue of this Act.

Application of moneys.

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

Company may apply corporate funds.

17. The Company may from time to time apply for or towards all or any of the purposes of this Act any sums of money which they have already raised or are authorised to raise by any of their Acts, and which are not required for the purposes to which they are by those Acts made specially applicable.

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.

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 the 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 other 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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