ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

# VICTORIÆ REGINÆ.

## *Cap.* ccc.

**An Act to extend the Time for the Purchase of Lands for and Completion of the *Kilpurcell* Branch Railway of the *Kilkenny Junction* Railway Company, and to confer upon that Company Power to use Stations at *Kilkenny*, and to enable them to raise further Money; and for other Purposes. [29th *July* 1864.]**

WHEREAS by "The *Kilkenny Junction* Railway Act, 1860," (in this Act called "the Act of 1860,") the *Kilkenny Junction* Railway Company (in this Act called "the Company") were incorporated (with a Capital in Shares of One hundred and forty thousand Pounds, and with Power to borrow on Mortgage or Bond Forty-six thousand Pounds), and were authorized to make a Railway from the *Waterford and Kilkenny* Railway at *Kilkenny* to the *Great Southern and Western* Railway at *Mountrath*: And whereas by "The *Kilkenny Junction* Railway Act, 1861," (in this Act called "the Act of 1861,") the Company were authorized and empowered to abandon the Portion of the Railway authorized by the Act of 1860 between *Abbeyleix* and the *Great Southern and Western* Railway, and instead thereof to make a deviated Railway to *Maryborough*

23 & 24 Vict. c. cliii.

24 & 25 Vict. c. ccxxxii.

*Maryborough* and a Branch Railway to *Kilpurcell*, with Power to raise the further Sums of Sixty thousand Pounds by Shares, and Twenty thousand Pounds by borrowing on Mortgage: And whereas by the Act of 1861 (Section 14) it was provided, that the Powers of the Company for the compulsory Purchase of Land for the Purposes of that Act should not be exercised after the Expiration of Three Years from the passing thereof; and (Section 15) that the Railways thereby authorized should be completed within Five Years from the passing of that Act; and further (Section 16) that, subject to the preceding Section of that Act, neither the deviated Railway to *Maryborough* nor the Branch Railway to *Kilpurcell* should be opened for public Traffic until the other of such Railways should have been completed, but that the Two should be opened simultaneously: And whereas it is expedient that the Times so respectively limited by Sections 14 and 15 of the Act of 1861 should be extended, so far as relates to the Purchase of Land for and the Completion of the said Branch Railway to *Kilpurcell*, and that the Provisions of Section 16 of that Act should be repealed: And whereas Plans and Sections of the said Crossings showing the Lines and Levels thereof, with a Book of Reference to those Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands through which those Crossings pass, or which may be taken for the Purposes thereof, have been deposited with the several Clerks of the Peace for the County of *Kilkenny* and for *Queen's County*: And whereas it is expedient that the Company should be empowered to use the Station or Stations at *Kilkenny*, exclusive of such Parts of that Station or those Stations as are herein-after mentioned: And whereas it is expedient to authorize Agreements between the Company and the Companies owning or interested in the said Station or Stations at *Kilkenny* with respect to the Ownership, Appropriation, Alteration, Management, Maintenance, Use, and Enjoyment of such Station or Stations, and the Works connected therewith, and incidental Matters: And whereas the Powers of the Company for raising Money under the recited Acts are insufficient for the Completion of their authorized Works, and it is expedient that further Powers in that Behalf should be conferred upon them: 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; (that is to say,)

Short Title.

**1.** This Act may be cited for any Purpose as "*Kilkenny Junction* Railway Act, 1864,"

**2.** Part

Parts I & 2 of 26 & 27 Vict. c. 92. incorporated.

**2.** Part I. relating to Construction of a Railway, and Part II. relating to Extension of Time, of "The Railways Clauses Act, 1863," shall be incorporated with this Act, and shall in all Particulars not otherwise provided for by or under the Powers of this Act apply respectively to the carrying the authorized Railway of the Company across the Road herein-after mentioned on the Level, and to the Extension herein-after provided for of the Time limited by the Act of 1861 for the Exercise of the Powers of the Company for the compulsory Purchase of Lands for and for the Construction of Part of the Railway and Works by that Act authorized.

Certain Provisions of 8 & 9 Vict. c. 16. and 26 & 27 Vict. c. 118. incorporated.

**3.** The Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845," 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 Nonpayment 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, with respect to the Consolidation of the Shares into Stock, with respect to the making of Dividends, and with respect to the Provision to be made for affording Access to the Special Act, and "The Companies Clauses Act, 1863," (except Part IV. of that Act,) shall be incorporated with this Act, and shall in all Particulars not otherwise provided for by or under the Powers of this Act respectively apply to all Shares and Capital created, and to all Monies borrowed, and Mortgages granted, by the Company under the Powers of this Act.

Construction of Terms.

**4.** In construing this Act, and in connexion therewith the Act and Parts of Acts incorporated therewith, the following Words and Expressions shall have the respective Meanings herein-after assigned to them, unless excluded by the Subject or Context; (that is to say,)

"The Special Act" shall mean this Act:

"The Company" shall mean the *Kilkenny Junction* Railway Company:

"The Undertaking" shall mean the Undertaking of the Company:

"Share" shall include Stock:

"Superior Courts" shall include any "Court of competent Jurisdiction" as interpreted by this Act:

"Court of competent Jurisdiction," and every like Expression, shall be read and have Effect as if the Debt or Demand with reference to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute:

"Traffic" shall have the Meaning assigned to that Word in and by "The Railway and Canal Traffic Act, 1854:"

"The Railway" shall mean the Railway authorized by the Act of 1860 as amended by the Act of 1861 and by this Act.

Same Meanings to Words in incorporated Acts as in this Act.

**5.** All Words and Expressions to which by any Act wholly or in part incorporated with this Act Meanings are assigned shall in this Act have the respective Meanings so assigned to them, unless and except in so far as there may be something in the Subject or Context repugnant to or inconsistent with such Construction, or other Meanings are assigned to them by this Act.

Sects. 14, 15, & 16 of 24 & 25 Vict. c. ccxxxii. repealed.

**6.** Sections 14, 15, and 16 of the Act of 1861 are hereby repealed.

Extending Time for compulsory Purchase of Lands for Branch to Kilpurcell.

**7.** Subject to the Provisions contained in Part II. of "The Railways Clauses Act, 1863," the Powers vested in the Company by the Act of 1861 for the compulsory Purchase of Land for the Purposes of the Branch Railway from *Grenan* to the *Great Southern and Western* Railway in *Kilpurcell* by that Act authorized may be exercised within Two Years, but shall not be exercised after the Expiration of Two Years, from the passing of this Act.

Extending Time for Completion of that Branch.

**8.** Subject to the Provisions contained in Part II. of "The Railways Clauses Act, 1863," the Powers vested in the Company by the Act of 1861 for executing the said Branch Railway may be exercised within Three Years, but shall not be exercised after the Expiration of Three Years, from the passing of this Act.

Penalty for Noncompletion of Kilpurcell Branch within Time limited.

**9.** If the said Branch Railway be not completed and opened for public Traffic within the said Period of Three Years, then (subject to the Provision herein-after contained) the Company shall forfeit and pay the Sum of Fifty Pounds for every Day after the Expiration of that Period during which the said Branch Railway shall remain unopened, which Amount shall be a Debt due from the Company to the Crown, and recoverable accordingly: Provided always, that no such Penalty shall accrue or be payable for or in respect of any Time during which the Company may be prevented from completing or opening the said Branch Railway by unforeseen Accident or Circumstances beyond their Control, of which Prevention and the Time for which it may have endured the Certificate of the Board of Trade shall be sufficient Evidence, and that Board, on the Production of such Proof as they shall deem sufficient, shall grant such Certificates accordingly, but the Want of sufficient Funds shall not be deemed a Circumstance beyond the Control of the Company.

Confirming the crossing of a certain Road by

**10.** It shall be lawful for the Company to stop up the Road numbered 11, in the Townland of *New Park Lower* in the Parish of *St. Maul* and County of *Kilkenny*, on the said Plans deposited for and

and mentioned in the Act of 1860: Provided always, that nothing herein contained shall in any way prejudice or affect a certain Agreement dated the Twenty-third Day of *March* One thousand eight hundred and sixty-four, and made between *James Delahunty* and *James Moriarty Tidmarsh* of the one Part and *Michael Sullivan* of the other Part.

Embankment instead of Bridge.

**11.** It shall be lawful for the Company to run over, work, and use with their Engines, Carriages, and Servants, and for the Purposes of Traffic of all Kinds, the Station or Stations at *Kilkenny*, so far as the same now is or are or may hereafter become the Property of the *Waterford and Kilkenny* Railway Company, but exclusive of any Parts of that Station or those Stations in which the *Irish South-eastern* Railway Company and the *Great Southern and Western* Railway Company, or either of them, may have any exclusive Right or Interest, and all Sidings, Platforms, Offices, Buildings, Approaches, Water, Water Supplies, Telegraphs, Signals, Engines, Machinery, Works, and Conveniences in, upon, or connected with that Station or those Stations respectively, subject to such reasonable Regulations as regards such User, and upon such Terms and Conditions, and in consideration of such Tolls, Charges, Rent, or other Payments, as shall be from Time to Time agreed upon between the Company and the Owners and Occupiers of the Station or Portion of Station so used, or as (failing such Agreement) shall be from Time to Time determined by an Arbitrator to be appointed by the Board of Trade on the Application of either of the Companies interested, and the Costs of the Arbitration shall be in his Discretion, and the Decisions of such Arbitrator shall be final and binding on all Parties; and the said Owners and Occupiers shall make, and are hereby required to make, all Arrangements requisite for such User, and for giving effect to such Regulations, and to the Decisions of such Arbitrator; and the Company may, in respect of Traffic conveyed by them under those Powers, demand and take the same Tolls and Charges upon and in respect of any Station or Portion of Station so used as if it were Part of the Railways and Works of the Company.

Power to use Waterford and Kilkenny Railway and Stations thereon, and at Kilkenny.

**12.** The Company on the one Side, and the *Waterford and Kilkenny* Railway Company, the *Waterford and Limerick* Railway Company, and the *Great Southern and Western* Railway Company, or either of them, (according to their respective Property, Right, or Interest in the Subject Matter of the Contract to be made,) on the other Side, may from Time to Time enter into and carry into effect Contracts with respect to the following Purposes, or any of them, and all incidental Matters; (that is to say,)

Contracts with other Companies as to Use of Kilkenny Station.

The Ownership, Appropriation, Alteration, Management, Maintenance, Repair, Use, and Enjoyment of the said Station or Stations at *Kilkenny*, and the Lines and Sidings therein and near thereto,

and the Approaches, Platforms, Offices, Buildings, Water Supplies, Signals, Telegraphs, Works, and Conveniences thereof and connected therewith:

The fixing, Collection, taking, and levying of the Tolls, Rates, and Terminal or other Charges to be made and levied there:

The Tolls, Charges, Rents, Contributions, and Payments to be made, paid, and allowed by each or either of the contracting Companies to the other or others of them:

The Appointment of a Joint Committee for the Purposes of any such Contract, and the Delegation to the Joint Committee of such of the Powers of the contracting Companies as they think necessary for carrying into effect the Purposes of the Contract.

Power to raise Money by new Shares.

**13.** The Company may from Time to Time (in addition to the Sums of Money which by the recited Acts or any other Act or Acts they are authorized to raise) raise for the Purposes of their Undertaking any Sums not exceeding in the whole Seventy-four thousand Pounds by the Creation and Issue of new ordinary Shares or of new Preference Shares, or partly of new ordinary Shares and partly of new Preference Shares, in such Proportions as the Company thinks fit: Provided always, that it shall not be lawful for the Company to issue any such new Share, nor shall any such new Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Unissued Shares may be cancelled.

**14.** If and whenever the Company resolve not to issue the whole of any Shares previously created, they may cancel the unissued Shares to which such Resolution applies.

Preference may be attached to Shares issued in lieu of cancelled or surrendered Shares.

**15.** The Company may from Time to Time, in lieu of any Shares cancelled or surrendered, issue new Preference Shares (not exceeding in aggregate nominal Value the Amount unpaid upon the Shares so cancelled or surrendered), and the Provisions, Sections 13 to 21 (both inclusive) of "The Companies Clauses Act, 1863," shall apply to such new Preference Shares.

Rate of Dividend of new Preference Shares.

**16.** The Rate of Dividend or Interest of any Preference Shares created under the Authority of this Act shall not exceed Six Pounds *per Centum per Annum.*

Defining financial Year.

**17.** The Year out of the Profits of which any Preference Shares so issued shall be entitled to the preferential Dividend or Interest assigned thereto shall be the Year ending on the Thirty-first Day of *October*, or on such other Day as may from Time to Time be determined upon at any General Meeting of the Company.

**18.** The

Power to borrow on Mortgage.

**18.** The Company may from Time to Time (in addition to the Sums which they are by the recited Acts or any other Act or Acts authorized to borrow) borrow on Mortgage of their Undertaking, and of the Tolls, Rates, and Charges arising therefrom, any Sums not exceeding in the whole Twenty-four thousand six hundred Pounds: Provided always, that the Company shall not borrow any Part of that Sum until the whole of the additional Share Capital of Seventy-four thousand Pounds by this Act authorized is *bonâ fide* subscribed for and issued, and One Half thereof is paid up, and the Company shall have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of that additional Capital is subscribed for or taken *bonâ fide* and is issued, and that not less than One Fifth of the Amount of each Share has been paid on Issue of the same, and that such Shares are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same (of which Facts the Certificate of the Justice under that Section shall be sufficient Evidence).

Priority of existing Mortgages.

**19.** All Mortgages granted by the Company before the passing of this Act, and which are in force at the Time of the passing of this Act, shall during their Continuance have Priority over all Mortgages granted by virtue of this Act.

Power to create Debenture Stock.

**20.** Subject to the Provisions of "The Companies Clauses Act, 1863," incorporated with this Act, the Company may create and issue Debenture Stock, and the preferential Interest which they may attach to such Stock shall not exceed the Rate of Five Pounds *per Centum per Annum*.

Application of Monies raised under this Act.

**21.** All Monies which the Company are by this Act authorized to raise, either by Shares or by Mortgage, shall be applied only to the Purposes by this Act and the recited Acts authorized.

No Interest or Dividend to be paid on Calls paid up.

**22.** The Company shall not, out of any Money by any Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay Interest or Dividend to any Shareholder on the Amount of Calls made in respect of the Shares held by him in the Capital by this Act authorized to be created: Provided always, that the Company may pay to any such Shareholder such Interest on Money advanced by him beyond the Amount of Calls actually made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation Act, 1845," in that Behalf contained.

**23.** The

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

**23.** The Company shall not, out of any Money by any Act relating to the Company authorized to be raised for the Purpose of such Act or Acts, pay or deposit any Sum of Money which, by any Standing Order of either House of Parliament for the Time being in force, may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any Railway, or to execute any other Work or Undertaking.

Railway not exempt from Provisions of present and future General Acts.

**24.** Nothing herein contained shall be deemed or construed to exempt the Company, or the Railway by this Act authorized to be made, 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 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 authorized by this Act, or of the Rates for small Parcels.

Expenses of Act.

**25.** The Costs, Charges, and Expenses of applying for, obtaining, and passing this Act, or preparatory or incidental thereto, shall be paid by the Company.

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