ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

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Cap. cxxx.

An Act to extend the *Kilrush and Kilkee* Railway, and to grant further Time for Completion of the Works. [19th *June* 1865.]

WHEREAS by "The *Kilrush and Kilkee* Railway and *Poulnasherry* Reclamation Act, 1860," a Company was incorporated for making a Railway from *Kilrush* to *Kilkee*, and for embanking and reclaiming the Estuary of *Poulnasherry* in the County of *Clare*, which Railway and Works are in the Course of Construction: And whereas by the 24 and 25 *Vict.* c. 29. the Company were authorized to divert a Portion of their Railway, and to deepen and improve the Creek or Harbour of *Kilrush*: And whereas by the said Acts the Company are authorized to raise Capital in Shares to the Amount of Sixty thousand Pounds, and to borrow a Sum not exceeding Twenty thousand Pounds, and of the said Capital Part has been raised, but no Money has yet been raised by the Company on Mortgage: And whereas it is expedient that the Company be enabled to extend their Railway near the Town of *Kilrush* in the Parish of *Kilrush*, and to relinquish the Construction of a Portion of the Railway in the said Parish rendered unnecessary by such Extension, and also that further Time be granted to the Company for completing their Works: And whereas Plans and Sections of the

23 & 24 Vict. c. xlv.

24 & 25 Vict. c. xxix.

intended Railway and Works showing the Line and Levels thereof respectively, and a Book of Reference to such Plans containing the Names of the Owners and Lessees or reputed Owners and Lessees and of the Occupiers of the Lands to be taken for the Purposes of the Undertaking, have been deposited with the Clerk of the Peace for the County of *Clare* at his Office in *Ennis*, and it is expedient that the said Railway and Works be authorized by this Act; but these Purposes 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, in manner following; (that is to say,)

Short Title.

1. This Act may for all Purposes be cited as the "*Kilrush and Kilkee* Railway Act, 1865."

8 & 9 Vict. cc. 16., 18., & 20., 14 & 15 Vict. c. 70., 23 & 24 Vict. cc. 97. & 106., and 26 & 27 Vict. cc. 92. & 118., incorporated.

2. The "Companies Clauses Consolidation Act, 1845," and the "Railway Clauses Consolidation Act, 1845," the "Lands Clauses Consolidation Act, 1845," the "Railways Act (*Ireland*), 1851," and the 23 and 24 *Vict.* cap. 97., for amending and making perpetual the said Railways Act (*Ireland*), 1851, and the "Lands Clauses Consolidation Acts Amendment Act, 1860," Part II., relating to additional Capital, of "The Companies Clauses Act, 1863," and Part I., relating to the Construction of a Railway, and Part II., relating to Extension of Time, of "The Railways Clauses Act, 1863," so far as not expressly varied by this Act, shall be and are hereby incorporated with this Act.

Interpretation of Terms.

3. The following Expressions in this Act shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Expression "the Company" shall mean the *Kilrush and Kilkee* Railway and *Poulnasherry* Reclamation Company:

The Expression "Undertaking" shall mean the Railways, Works, Lands, and Waste or Slob Lands, and other Property of the Company.

Power to Company to apply Funds to substituted Line.

4. And whereas the Cost of the Construction of the Portion of Railway by this Act authorized to be abandoned will be sufficient for the Construction of the said substituted Line of Railway hereby authorized: Therefore it shall be lawful for the Company to apply to the Construction thereof the Monies applicable to such abandoned Portion.

Preference or other Privileges may be

5. The Company may, with the Consent of Three Fifths at least of the Votes of their Shareholders present, personally or by proxy, at any Extraordinary Meeting convened with due Notice of the Object,

attach

attach to all or any of the Shares to be created under the Powers of the recited Acts, to any Amount not exceeding the Sum of Twenty thousand Pounds, a preferential Dividend, and may also attach to such Shares a Condition that the same may be redeemed upon Conditions to be stated in the Resolutions creating the same, and to be notified on the Certificates of such Shares; and for the Purpose of redeeming the same, or any Part thereof, the Company may create and issue from Time to Time fresh Shares, with or without any special Advantages.

attached to Shares created under recited Acts.

6. If in the First Half of any Year commencing on the First Day of *January* there be Profits applicable to the Purposes of Dividend upon the Ordinary Shares or Stock of the Company, after satisfying the Dividend and Arrears of Dividend (if any) due upon any Preference Shares or Stock of the Company to be created under the Powers of the recited Acts, it shall be lawful for the Company to declare a Dividend for such Half Year on such Ordinary Shares or Stock.

As to Dividends for First Half of a Year.

7. The Proprietors of any Preference Shares to be created and issued under the Authority of the said recited Acts shall be entitled to such Number of Votes in respect thereof as the nominal Amount represented by such Shares would have entitled them to if the same had been original Ordinary Shares of the Company.

As to Votes of Proprietors of such Shares.

8. And whereas by the recited Acts the Money raised by Shares and by borrowing is divided into Two proportionate Parts, One Part being made applicable to the Railway and Landing Place, and the other Part to the Embankment and Reclamation, and such Division and Application of Money has been found inconvenient, and it is expedient to amalgamate the same: Therefore the Monies authorized by this and by the recited Acts to be raised by Shares shall form the undivided Capital of the Company, and shall, together with the Monies by the said Acts authorized to be borrowed be applicable to the general Purposes of the Undertaking of the Company.

Amalgamation of Capital.

9. Subject to the Provisions and Powers in this Act and in the incorporated Acts contained, the said Railway and Works may be made in the Lines or Course and upon the Lands delineated on the said Plans or described in the said Book of Reference, and according to the Levels defined on the said Sections; and, subject to the aforesaid Provisions, it shall be lawful for the Company to enter upon, take, and use such of the said Lands as shall be necessary for such Purpose.

Railway and Works to be made according to deposited Plan.

10. The Railway and Works which it shall be lawful for the Company to make and maintain, with all necessary Communications and

Description of Works by this Act authorized.

and Conveniences connected therewith, are the following; (that is to say,)

An Extension Railway commencing by a Junction with the authorized Line in a certain Field in the Townland of *Leadmore West* and Parish of *Kilrush* numbered 60 on the Plans referred to in the "*Kilrush and Kilkee* Railway Act, 1860," and now in possession of the Company, passing through the Townlands, Parishes, and Extra-parochial Places following, that is to say, *Leadmore West*, *Leadmore East*, *Drimna*, *Kilrush*, and *Cappagh*, in the Parish of *Kilrush*, and the Extra-parochial Places of the Bed and Shores of *Kilrush Creek*, and of the Bed and Shores of the Estuary of the River *Shannon* adjoining thereto, and terminating in the Townland of *Cappagh* and Parish of *Kilrush* at the Revenue or Board of Works Pier at a Point on its Western Side distant Twenty-two Yards or thereabouts from its Junction with the Mainland.

As to Deposit of Plans with Clerks of Unions instead of Postmasters.

11. 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 situated, and that certain 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 herein-before required to be deposited with the Postmasters of the Post Towns in *Ireland* are now deposited with the Clerks of the Union 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 that 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.

Plans, &c. of Works relating to Reclamation to remain with the Clerk of the Peace.

12. The Clerk of the Peace for the County of *Clare*, so far as the said Plans, Sections, and Book of Reference relate to that Part of the Railway connected with the Embankment and Reclamation, shall allow all Persons to inspect the same, and to make Copies and Extracts of and from the same, in like Manner and upon the like Terms, and under the like Penalty for Default, as is provided by the Act

Act of the First Year of the Reign of Her present Majesty, Chapter Eighty-three, with reference to the Documents herein referred to.

Copies to be Evidence.

13. Copies of the said Plans, Sections, and Book of Reference, so far as relate to the said Reclamation, or Extracts therefrom, duly certified by the said Clerk of the Peace, shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Relinquishment of Portion of Railway.

14. In respect of the Railway by this Act authorized the Company shall abandon and relinquish the Construction of that Portion of the said *Kilrush and Kilkee* Railway commencing—

At a Point in a certain Field in the Townland of *Leadmore West* and Parish of *Kilrush* numbered 60 on the Plans referred to in the "*Kilrush and Kilkee* Railway Acts, 1860–1," and now in possession of the Company, passing through the Townland, Parishes, and Extra-parochial Places following, that is to say, *Leadmore West* in the Parish of *Kilrush*, and the Extra-parochial Places of the Bed and Shores of *Kilrush Creek* adjoining thereto, and terminating on a certain Quay or Landing Place in the Townland of *Leadmore West* adjoining the disused Distillery, and numbered 47 on the Plans referred to in the "*Kilrush and Kilkee* Railway Act, 1861," the total Length of the Portion proposed to be abandoned being Two Furlongs or thereabouts.

Compensation to be made in respect of Portion relinquished.

15. Where before the passing of this Act any Contract has been entered into or Notice given by the Company for purchasing any Land which the Company are authorized to purchase for the Purpose of making any Part of the Portion of the Line which they are by this Act required to abandon, the Company shall make to the Owners or Occupiers of or other Persons interested in such Lands full Compensation for all Injury or Damage sustained by them respectively by reason of the Purchase not being completed pursuant to the Contract or Notice, and the Amount and Application of the Compensation shall be determined in manner provided by the "Lands Clauses Consolidation Act, 1845," and "The Railways Act, *Ireland*, 1851," and "The Railways Act (*Ireland*), 1860," continuing and amending the same, for determining the Amount and Application of Compensation paid for Lands taken under the Provisions of said Acts.

Compensation for Damage to Lands by Entry.

16. The Authority by this Act given to the Company to abandon the said Portion of Railway shall not prejudice or affect the Right of the Owner, Lessee, or Occupier of any Lands which the Company are authorized to purchase for the Purpose of making such Portions to receive from the Company Compensation according to the Provisions in that Behalf of the said "Lands Clauses Consolidation Act," and said other Acts, for any Damage occasioned by the Entry of the

Company upon the Lands for the Purpose of surveying and taking Levels, or probing or boring to ascertain the Nature of the Soil, or setting out the Line of such Portions as aforesaid.

Powers for compulsory Purchases limited.

17. The Powers of the Company for the compulsory Purchase of Lands for the Purposes of the Railway by this Act authorized shall not be exercised after the Expiration of Two Years after the passing of this Act.

Period for Completion of Railway.

18. The Railway by this Act authorized shall be completed within Two Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for making the said Railway shall cease, excepting as to so much of the same as shall then have been completed.

Extension of Period for taking Lands and completing Works.

19. The Powers by the recited Acts granted for the compulsory Purchase of Lands, and for the Completion of the Works thereby authorized, are hereby revived and extended; (that is to say,) for One Year in respect to the Purchase of Lands, and for Two Years in respect to the Completion of Works, from and after the passing of this Act.

Railway as to Tolls, &c. to form Part of original Undertaking.

20. The Railway by this Act authorized with respect to Tolls, Rates, and Duties, Fares and Charges, and otherwise, shall be Part of the said *Kilrush and Kilkee* Railway in all respects and in like Manner as if such Railway had been authorized by the said recited Acts, or either of them.

Provision as to Payment of 1,200*l.* in respect of Her Majesty's Rights.

21. And whereas by the first-recited Act, Sections 48 and 49, it is enacted, that before the Waste Lands to be thereby embanked and reclaimed shall vest in the Company the Sum of One thousand two hundred Pounds therein mentioned, with Interest, shall be paid to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues in respect of Her Majesty's Estate and Interest in such Lands, and it is expedient to alter the same Provisions so far as regards the Time for Payment of the same Sum of Twelve hundred Pounds and Interest thereon: Therefore the 49th Section of the first-recited Act shall be henceforth read and construed as if the Date of the First Day of *January* 1866 were substituted for the First Day of *January* 1862, and as if the Date of the First Day of *January* 1868 were substituted for the First Day of *January* 1864, and all Interest on same Sum of Twelve hundred Pounds up to the said First Day of *January* 1866 is by this Act remitted in favour of the Company.

Saving Rights of the Crown.

22. Nothing contained in this Act or in any of the Acts herein referred to, except as herein expressly provided, shall authorize the said Company to take, use, or in any Manner interfere with any Land,

Land, Soil, Tenements, or Hereditaments, or any Rights of whatsoever Nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give), neither shall anything in the said Act or Acts contained divest, take away, prejudice, diminish, or alter any Estate, Right, Privilege, Power, or Authority vested in or enjoyed or exerciseable by the Queen's Majesty, Her Heirs or Successors.

Saving the Rights of Lords of Manors.

23. Nothing herein contained shall extend or be construed to extend to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Lord or Lords of any Manor adjoining or contiguous to any Part or Parts of the said Waste Lands by this or the recited Act authorized to be reclaimed as aforesaid, except so far as the same may be barred or extinguished by any Act, Deed, Matter, or Thing to be made, done, or executed in pursuance of the said Acts.

Saving Rights of Commissioners of Public Works.

24. Nothing in this Act or in any of the Acts incorporated therewith shall lessen, abridge, or interfere with the Powers and Authorities vested in the Commissioners of Public Works acting in execution of an Act passed in the Second and Third Years of the Reign of Her present Majesty, intituled *An Act for the Improvement of the Navigation of the River* Shannon, or any other Act respecting the said River; and, notwithstanding anything in this Act or in any of the said Acts contained, it shall not be lawful for the Company to carry the Railway or other Works over, across, or alongside of the said River, or on or along any Part of the Shore, Land, or Hereditaments now vested in the said Commissioners of Public Works, or being within the Jurisdiction of the said Commissioners, as heretofore defined under the Provisions of the said Act for the Improvement of the Navigation of the said River, or to make any Bridges or other Works in, over, or along any Part of the said River, or in any Manner to interfere with the Works now or hereafter to be executed under the said Act, or with the Navigation of the said River *Shannon*, except and upon such Terms, under such Restrictions, and according to such Plans, Elevations, and Sections, as shall be approved of and so signified by the said Commissioners of Public Works in *Ireland* in Writing under the Hand of their Secretary for the Time being.

Saving Bond granted for Deposits.

25. Provided, That nothing in this Act contained shall affect the Provisions contained in the Seventy-first Section of the first-recited Act, but the same shall remain in full Force and Effect (save and except as to such Part of the Railway as is by this Act abandoned) in the same Manner as if this Act had not been passed.

26. If

Penalty for Non-completion of Railway.

26. If the Railway by this Act authorized shall not be completed within the Period by this Act limited for the Completion thereof, the Company shall be liable to a Penalty at the Rate of Fifty Pounds for every Day after the Expiration of that Period until the Railway shall be so completed and opened, and the said Penalty shall be deemed a Debt due to Her Majesty in right of the Crown, and may be recovered accordingly: Provided always, that if the Company shall be prevented from completing the Railway by unforeseen Accident or by Circumstances beyond their Control (of which Fact a Certificate under the Hand of the Secretary of the Board of Trade shall be Evidence), the Company shall not be liable to the Payment of the Penalty in respect of the Period during which it shall be certified that they have been so prevented as aforesaid, but for the Purposes of this Section the Want of sufficient Funds shall not be a Circumstance beyond their Control.

Deposit for future Bills not to be paid out of the Company's Capital.

27. The Company shall not, out of any Money by this Act or any Act relating to the Company authorized to be raised or applied for the Purposes of the Company, pay or deposit any Sum of Money 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 authorizing the Company to make any other Railway, or to execute any other Work or Undertaking.

Interest not to be paid on Calls paid up, except on Advances beyond Calls made.

28. The Company shall not, out of any Money by any Act relating to the Company authorized to be raised by Shares or by borrowing, pay Interest or Dividends to any Shareholder on the Amount of Calls made in respect of 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 any Interest or Money advanced by him beyond the Amount of Calls actually made as is in conformity with the Provisions in that Behalf of the "Companies Clauses Consolidation Act, 1845."

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

29. This Act shall not exempt the Company from the Provisions of any present or future General Act relating to Railways, or to the better or more impartial Audit of the Accounts of Railway Companies, or from any future Revision and Alteration, under the Authority of Parliament, of the Rates or Fares and Charges in the first-recited Act and this Act respectively authorized, or of the Rates for small Parcels thereby respectively authorized.

Expenses of Act.

30. All the Costs, Charges, and Expenses of and incident to the obtaining and passing of this Act shall be paid by the Company.

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