CHAPTER xcii.

An Act to make further provisions respecting the Capital of the Limerick and Kerry Railway Company and for other purposes. [3rd July 1884.]

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WHEREAS the Limerick and Kerry Railway Company (herein-after called "the Company") were incorporated by the Limerick and Kerry Railway Act 1873 (herein-after called "the Act of 1873") and were authorised to make and maintain a railway (herein-after called "the railway") in the counties of Limerick and Kerry and for that purpose to raise two hundred and sixty thousand pounds by shares and one hundred and thirty thousand pounds by borrowing:

And whereas by the Act of 1873 it is among other things enacted that if and when at any time during the period of twenty-three years after the opening of the railway for public traffic the net receipts from the railway do not amount to a sum equal to a dividend upon the capital expended thereon at the rate of five pounds per centum per annum then the amount required to make up such dividend on thirty-eight thousand pounds is to be paid by the county of Limerick and on one hundred and twelve thousand pounds by the county of Kerry which last-mentioned sum is to be apportioned as therein mentioned on certain baronies in the county of Kerry:

And whereas by the Limerick and Kerry Railway Act 1877 (herein-after called "the Act of 1877") on the recital that the Company were unable to raise capital on the security of the said respective guarantees by reason of the same not being attached or capable of being attached to any specific portion of the capital of the Company and that in consequence thereof the Company had been unable to proceed with the construction of the railway and that it was expedient for the purpose of enabling the railway to be completed and opened for public traffic that provision should be made for attaching the said respective guarantees to specific shares in the capital of the Company to the extent and in the manner therein

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defined and that it was also expedient that from and after the expiration of the said respective guarantees provision should be made for converting the shares to which the said respective guarantees were attached into preference shares of the Company the Company were authorised from time to time to issue one hundred and fifty thousand pounds in guaranteed shares of ten pounds each entitled to a fixed guaranteed dividend at the rate of five pounds per centum per annum on the amount for the time being paid up thereon respectively and to declare that the guarantee by the county of Limerick on the amount of thirty-eight thousand pounds of the capital of the Company or any part of such guarantee should attach to a specific number of guaranteed shares and to no other part of the capital of the Company and that the guarantee by the county of Kerry on the amount of one hundred and twelve thousand pounds of the capital of the Company should attach to a specific number of the guaranteed shares and to no other part of the capital of the Company and it was provided that the holders of such guaranteed shares respectively should be entitled to all the benefits of such guarantees accordingly to the exclusion of all other persons whomsoever whether shareholders in or creditors of the Company:

And whereas it is further provided by the Act of 1877 that the guaranteed shares issued in pursuance of that Act and to which the guarantee of the county of Limerick was attached should be designated "Limerick and Kerry Railway Guaranteed (Limerick) Shares" and the guaranteed shares to which the guarantee of the county of Kerry should attach should be called "Limerick and Kerry Railway Guaranteed (Kerry) Shares" and that the terms and conditions on which such shares respectively were issued should be stated in the certificates relating thereto:

And whereas it is further provided by the Act of 1877 that from and after the expiration of the said respective guarantees or from and after the date at which the Company should in pursuance of the provisions contained in section 71 of the Act of 1873 have released the county of Limerick and the baronies in the county of Kerry from all further liability (whichever should first happen) the guaranteed shares respectively should become and be preference shares of the Company but the dividend thereon should not exceed the rate of five pounds per centum per annum:

And whereas the Company have borrowed on mortgage the sum of seventy-eight thousand pounds or thereabouts but subject to agreement with the lenders that notwithstanding section 48 of the Companies Clauses Consolidation Act 1845 payment of the principal and interest moneys secured by such mortgages is during the period of twenty-three years from the opening of the railway for public traffic from Newcastle to Tralee or during so much of

that period as the guarantees by the counties of Limerick and Kerry respectively in the Company's Acts contained shall remain in force postponed to the right of the holders for the time being of the Limerick and Kerry Railway guaranteed (Limerick) shares and of the Limerick and Kerry Railway guaranteed (Kerry) shares respectively to receive out of and as a first charge upon the net receipts arising from the railway in every half year, and in priority to all claims under or by virtue of such mortgages a half-yearly dividend of five pounds per centum per annum on the nominal and paid up amount of such shares together with all arrears of such dividends theretofore due and unpaid and also that such mortgages are subject to the rights of the said counties respectively to have one-half of the net receipts in any half year over the sum required to cover the guaranteed dividends on the said shares applied in payment of any principal sums previously paid by the said counties under their respective guarantees:

And whereas the mortgages for the said sum were also subject to agreement with the lenders that the Company might (if authorised by Parliament) raise by way of mortgage the further sum of thirty thousand pounds which should have priority over the said sum of seventy-eight thousand pounds and also over the sum of twenty-two thousand pounds being the then balance of the Company's borrowing powers:

And whereas by the Limerick and Kerry Railway Act 1881 (in this Act called "the Act of 1881") on the recital that it had become necessary to exercise the said reserved powers of raising the said further sum of thirty thousand pounds it was enacted that the Company might borrow on mortgage thirty thousand pounds which should have priority and preference as regards interest arrears of interest and principal over all other moneys already borrowed or which might thereafter be borrowed by the Company Provided that if the said thirty thousand pounds were so borrowed then the amount authorised by the Act of 1877 to be borrowed by the Company should be restricted to one hundred thousand pounds:

And whereas the Act of 1881 empowered the Company to acquire the undertaking of the Rathkeale and Newcastle Junction Railway Company and for that purpose and also for general purposes to raise additional capital not exceeding two hundred thousand pounds by new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes and also to borrow on mortgage not exceeding one hundred thousand pounds:

And whereas by special resolutions of the Company duly passed at extraordinary general meetings held on the twenty-third day of July one thousand eight hundred and eighty-one and the thirtieth day of January one thousand eight hundred and eighty-two

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the directors were authorised to issue from time to time the ordinary shares of the Company then remaining unissued at such price and in such manner as they should think right and proper and the then unissued ordinary shares were on the fourteenth day of December one thousand eight hundred and eighty-three under the authority of a further resolution of the Company issued at a discount:

And whereas the existing capital of the Company now consists of the following shares and debentures all of which are fully paid up or issued as fully paid up (that is to say):

Share Capital.

£38,000 Five per cent. Limerick and Kerry Railway Guaranteed (Limerick) Shares

£112,000 Five per cent. Limerick and Kerry Railway Guaranteed (Kerry) Shares

£110,000 Ordinary Shares

Loan Capital.

£64,300 Six per cent. Debentures with arrears of interest from September 1879.

£30,000 Five per cent. (Preferential) Debentures.

And whereas the Limerick and Kerry Railway guaranteed (Limerick) shares and the Limerick and Kerry Railway guaranteed (Kerry) shares carry a five per centum dividend during the period of the counties' guarantee in priority to all other share and loan capital of the Company but on the expiration of the period of guarantee (that is to say in the year 1903) they will become preference shares and rank after the debenture debt of the Company and after any moneys owing to the counties and any arrears of interest:

And whereas the thirty thousand pounds five per centum debentures rank during the period of the guarantee after the guaranteed shares but on its expiration they will become a first charge on the undertaking:

And whereas the six per centum debentures also rank during the period of guarantee after the guaranteed shares but on its expiration they will become a second charge on the undertaking:

And whereas the railway is open and (as well as the line of the Rathkeale Company) is worked by the Waterford and Limerick Railway Company but the net receipts are at present inadequate to meet the dividend on the guaranteed shares and the deficiency has had to be made up by the counties pursuant to their guarantees:

And whereas it is expedient that the ordinary shares of the Company be converted into stock and that the Company be empowered to enter into arrangements with the holders of any of the guaranteed shares or of the loan capital of the Company for the conversion of their shares or debentures into debenture stock:

And whereas by the Tralee and Fenit Railway Act 1880 and the articles of agreement scheduled thereto the Company were authorised to construct a single line of railway parallel with their existing line of railway from the termination of the Railway No. 1 of the Tralee and Fenit Railway Company authorised by that Act to the station at Tralee of the Company's railway with all proper junctions stations works and conveniences for the interchange of traffic at that station:

And whereas it is expedient to define the railway of the Tralee and Fenit Railway Company:

And whereas the objects aforesaid cannot be attained 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 as the Limerick and Kerry Railway Act 1884.

Interpretation.

2. In and for the purposes of this Act (unless the context otherwise requires) "share" means a share in the capital of the Company "guaranteed shares" includes the Limerick and Kerry Railway guaranteed (Limerick) shares and the Limerick and Kerry Railway guaranteed (Kerry) shares.

Conversion of shares into stock.

3. (1) On and from the date of the passing of this Act the eleven thousand ordinary shares existing immediately before that date and forming part of the original capital of two hundred and sixty thousand pounds shall be by virtue of this Act converted into one hundred and ten thousand pounds ordinary stock to be divided among the existing holders of those shares according to their respective interests and sections 62 to 64 (both included) of the Companies Clauses Consolidation Act 1845 are hereby incorporated with this Act and shall apply to such stock as aforesaid Provided that such stock shall only be transferable in amounts of ten pounds or multiples of ten pounds and that every holder of such stock shall be entitled to one vote at all meetings of the Company in respect of every ten pounds of stock standing in his name in the Company's books.

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(2) All such stock shall be held in the same rights on the same trusts and subject to the same powers provisions charges and liabilities as those in upon or to which the shares for which such stock is substituted were respectively held or subject to immediately before the passing of this Act and so as to give effect to and not to revoke any deed will or other instrument disposing of or affecting any such shares as aforesaid.

Power to agree for conversion &c. of guaranteed shares and debentures.

4. At any time after the passing of this Act the Company may agree with all or any of the holders of the guaranteed shares or of the loan capital of the Company for the conversion into debenture stock of the shares or debentures held by them respectively or for the purchase or redemption of such shares or debentures in consideration of a payment in money to be made by the Company but any holder of such shares or debentures existing at the passing of this Act shall be entitled at his option to retain such shares or debentures under the designation and with all the rights priorities privileges and securities attaching to them at the passing of this Act.

Creation and issue of debenture stock.

5. For the purpose of giving effect to the foregoing provisions of this Act and of raising any moneys which the Company are authorised to raise under the Act of 1873 and which they have not raised and also for the purpose of discharging any liabilities of the Company the Company may from time to time create and issue such amount of debenture stock as may be required not exceeding altogether three hundred thousand pounds.

Provisions as to debenture stock.

6. (1.) The interest on any debenture stock issued under the authority of this Act shall not exceed the rate of five pounds per centum per annum and not more than one hundred pounds of debenture stock shall in any case be given in exchange for any one hundred pounds of the existing guaranteed share or loan capital of the Company.

(2.) Subject as aforesaid the Company may create and issue any debenture stock authorised by this Act at such times and in such manner and with such rights and priorities and either perpetual or redeemable as they may deem most expedient and may attach different rates of interest to different classes or portions of debenture stock and may attach the respective existing guarantees of the counties of Limerick and Kerry to any specific classes or portions of debenture stock but not so as in any way to increase alter or affect the existing liabilities of those counties in respect of their existing guarantees.

(3.) All shares or debentures purchased or redeemed by the Company under the powers of this Act shall thereupon by virtue of this Act be extinguished and cancelled but the Company may issue

in lieu thereof a corresponding amount of debenture stock but so that the whole amount of debenture stock issued under the powers of this Act shall not exceed the said sum of three hundred thousand pounds.

(4.) All debenture stock into which any shares or debentures are converted under the powers of this Act shall be held in the same rights on the same trusts and subject to the same powers provisions charges and liabilities as those in upon or to which the shares or debentures for which such debenture stock is substituted were respectively held immediately before the passing of this Act and so as to give effect to and not to revoke any deed will or other instrument disposing of or affecting any such shares or debentures as aforesaid.

Debenture stock.

7. The provisions of Part III. (relating to debenture stock) of the Companies Clauses Act 1863 save so far as the same are varied by or inconsistent with this Act are hereby incorporated with this Act but notwithstanding anything in the said provisions contained the interest on all debenture stock created and issued under this Act shall without prejudice to any rights or priorities of the holders thereof inter se and subject to the provisions of any subsequent Act rank pari passu with the interest on any mortgages granted after the passing of this Act and shall have priority over all principal moneys secured by such mortgages.

Provisions as to trustees executors &c.

8. Trustees executors administrators and any other persons empowered under section 7 of the Lands Clauses Consolidation Act 1845 to sell and convey lands may enter into and carry into effect agreements respecting the conversion purchase or redemption under this Act of any guaranteed shares or debentures held by them respectively.

Saving for shares and debentures not converted into debenture stock.

9. Nothing in this Act contained or which shall be done under the powers thereof shall prejudicially affect any guaranteed shares or debentures existing at the date of this Act and which shall not be converted purchased or redeemed under the powers thereof but such shares or debentures shall continue to be or become entitled to dividend or interest as and when (but not before) they would have been or would have become entitled in case this Act had not been passed and the rights priorities privileges and securities appertaining to such guaranteed shares or debentures before the passing of this Act shall not in any respect be affected prejudiced or postponed by the conversion of any of the capital of the Company into debenture stock or by the creation of any debenture stock otherwise than by such conversion or by the granting of any mortgages or the raising of any money or in any way by the

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increase of the capital of the Company under this Act or the Act of 1881.

Saving for debenture stock in relation to holders of unconverted shares and debentures.

10. In the event of any such guaranteed shares or debentures not being converted purchased or redeemed under the powers of this Act the debenture stock representing guaranteed shares or debentures which shall have been so converted shall in relation to such unconverted guaranteed shares or debentures carry and be entitled to the same rights priorities and privileges and generally shall be in the same position as the guaranteed shares or debentures represented by such stock would have carried and been entitled to if they had not been converted into debenture stock under this Act The terms and conditions on which such debenture stock is issued shall be endorsed on the certificates thereof with notice of the enactment in this section contained.

Certain provisions in existing Acts for raising money annulled.

11. Except as herein and in the Act of 1881 provided every provision in any of the Company's special Acts passed before the passing of this Act authorising the raising of money by the Company shall be and is hereby annulled but without prejudice to anything done or suffered before the passing of this Act.

Saving for counties.

12. Nothing in this Act shall alter or affect the rights and liabilities of the counties under their respective existing guarantees.

Grand juries of counties of Limerick and Kerry each to appoint a director of the Company.

13. So long as the existing guarantees by the counties of Limerick and Kerry respectively shall continue in force the grand jury of each county is hereby empowered from time to time to appoint one director of the Company in addition to the ordinary directors authorised by the Company's Acts No other qualification than being so appointed shall be requisite for such directors and such appointment may from time to time be revoked. The persons so from time to time appointed shall accordingly be directors of the Company and shall have the same powers and be subject to the same regulations and provisions as the ordinary directors of the Company except as to remuneration and expenses which shall be provided by the grand juries and which remuneration and expenses they are hereby authorised and empowered to present without previous application to presentment sessions and as to retiring from office by rotation Provided always that all appointments and revocations shall be testified in writing under the hand of the secretary to the grand juries respectively and shall be delivered to the secretary of the Company and shall be kept with the records of the Company and an entry of every such appointment and revocation shall be made in the minutes of the board Provided also that if the said guarantees or either of them shall at any time be released or from any cause cease to be operative the said grand juries or

either of them as the case may be shall thereupon forfeit the right to appoint directors by this section conferred and the directors then holding office under any appointment by them shall cease to be qualified.

Explanation of section 25 of Act of 1881.

14. The expression "the railway and works connected therewith" as used in section 25 of the Act of 1881 shall be deemed to include any and every railway which has been constructed by the Company under the powers of any Act of Parliament and in particular the railway constructed under the Tralee and Fenit Railway Act 1880.

Defining the Tralee and Fenit Railway.

15. And whereas in the construction of the Tralee and Fenit Railway certain deviations have been made from the lines and levels shown on the deposited plans and sections and it is expedient to define that railway Therefore the railway and works of the Tralee and Fenit Railway Company as constructed and opened for public traffic shall for all purposes be and be deemed to be the railway of that Company authorised by the Tralee and Fenit Railway Act 1880 as amended by the Tralee and Fenit Railway Certificate 1884.

Repeal of proviso to section 11 of Act of 1873.

16. The proviso to section 11 of the Limerick and Kerry Railway Act 1873 is hereby repealed Provided that all moneys or other consideration obtained by the Waterford and Limerick Railway Company on any sale or other disposition of shares in the Company shall be applied only to purposes to which capital of the Waterford and Limerick Railway Company may for the time being lawfully be applied.

Interest not to be paid on calls paid up.

17. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall 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.

Deposits for future Bills not to be paid out of Company's capital.

18. The Company shall not out of any moneys 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 execute any other work or undertaking.

Provisions as to General Railway Acts.

19. Nothing in this Act contained shall exempt the Company or the railway from the better or more impartial audit of the

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accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from the provisions of any general Act relating to railways 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 the Acts respectively regulating the railways of the Company.

Expenses of Act.

20. All the 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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