CHAPTER cxix.

An Act to authorise deviations from the authorised lines of the Central Ireland Railways, and to confer further powers with reference to those lines and their respective undertakings of the Waterford and Central Ireland Railway Company and the Kilkenny Junction Railway Company; and for other purposes. [7th July 1873.] A.D. 1873.

WHEREAS by "The Waterford and Kilkenny Railway Act, 1845," the Waterford and Kilkenny Railway Company were incorporated for the purpose of making a railway from Waterford to Kilkenny, with a branch to Kells, but which branch they were by "The Waterford and Kilkenny Railway Act Amendment Act, 1848," authorised to abandon: 8 & 9 Vict. c. lxxxvii. 11 & 12 Vict. c. lxi.

And whereas "The Waterford and Kilkenny Railway Amendment Act, 1850," "The Waterford and Kilkenny Railway Amendment Act, 1851," "The Waterford and Kilkenny Railway Company's Act, 1858," "The Waterford and Central Ireland Railway Act, 1868," and "The Waterford and Central Ireland Railway Act, 1872," have since been passed, and by the Act of 1868 the name of the Waterford and Kilkenny Railway Company was changed into the Waterford and Central Ireland Railway Company: 13 & 14 Vict. c. lxii. 14 & 15 Vict. c. cxli. 21 & 22 Vict. c. xlviii. 31 & 32 Vict. c. cxli. 35 & 36 Vict. c. lxxiv.

And whereas the total sums which under the recited Acts the said Company (hereafter in this Act called "the Waterford Company") were in the events which have happened authorised to raise, were by ordinary shares two hundred and fifty thousand pounds, by preferential shares two hundred thousand pounds (the first of which sums they have raised accordingly, and of the second of which sums they have raised one hundred and ninety-six thousand eight hundred and eighty-five pounds, entitled to dividends at the rate of six pounds per centum per annum), and by borrowing (exclusive of the power given to them by the second last-recited Act of borrowing on mortgage of an annual rentcharge payable by the Great Southern and Western Railway Company) one

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hundred and seventy-nine thousand pounds (of which last-mentioned sum they have borrowed one hundred and fifty-nine thousand pounds accordingly):

23 & 24 Vict. c. cliii. And whereas by "The Kilkenny Junction Railway Act, 1860," the Kilkenny Junction Railway Company (herein-after in this Act called "the Kilkenny Company") were incorporated:

24 & 25 Vict. c. ccxxxii. 27 & 28 Vict. c. ccc. 30 & 31 Vict. c. clix. And whereas "The Kilkenny Junction Railway Act, 1861," "The Kilkenny Junction Railway Act, 1864," and "The Kilkenny Junction Railway (Abandonment of Kilpurcell Branch) Act, 1867," have since been passed:

And whereas under the recited Acts the Kilkenny Company have raised by ordinary shares sixty thousand five hundred and seventy-five pounds, by preference shares forty thousand eight hundred and eighty pounds, and by borrowing on mortgage sixty-six thousand pounds:

29 & 30 Vict. c. cclvii. And whereas by "The Central Ireland Railways Act, 1866," the Waterford Company and the Kilkenny Company were authorised to make and maintain the following railways; videlicet,

(A.) From the Kilkenny Junction Railway, at Maryborough, to Mountmellick, in Queen's County;

(B.) From Mountmellick to Geashill, in King's County;

(C.) From Geashill to Mullingar, in the county of Westmeath, and there to join the Midland Great Western Railway of Ireland;

(D.) From the above-mentioned railway (A.) to join the Great Southern and Western Railway at Maryborough;

(E.) From the above-mentioned Railway (B.) to join the Great Southern and Western Railway at Geashill;

and (sections 25 and 26) provision was made for the execution of the purposes of the Act now in recital by a joint committee to be nominated by the respective boards of directors of the Waterford Company and the Kilkenny Company, therein called the Joint Undertaking Committee, and for the purposes of that Act each of those Companies was authorised to raise (sections 6 and 7) by ordinary shares or ordinary stock one hundred and ten thousand pounds, and (sections 18 and 19) by borrowing on mortgage thirty-six thousand six hundred pounds, and (section 11) the undertaking by that Act authorised was constituted a separate undertaking, and the capital of each of the two Companies under that Act was constituted a separate capital, and (section 13) the net revenue from the undertaking was made applicable exclusively for purposes connected with mortgages granted and shares or stock created under that Act, and (section 21) the mortgages granted under that Act

were only to comprise and affect, and the mortgages and bonds granted under other Acts were not to comprise or affect, the undertaking by that Act authorised and the revenue accruing under that Act:

And whereas by "The Central Ireland Railways Act, 1866," the period for the compulsory purchase of land for the purposes of that Act was (section 39) limited to three years, and the period for the completion of the railways by that Act authorised was (section 40) limited to five years, from the passing of that Act; and that Act received the royal assent on the twenty-third day of July one thousand eight hundred and sixty-six:

And whereas by a warrant of the Board of Trade, dated the twenty-sixth day of July one thousand eight hundred and sixty-nine, made pursuant to "The Railways (Extension of Time) Act, 1868," and validated by "The Regulation of Railways Act, 1868" (section 46), the period for the compulsory purchase of the said lands was extended for two years, viz., to the twenty-third day of July one thousand eight hundred and seventy-one; and the period for the completion of the said railways was also extended for two years, viz., to the twenty-third day of July one thousand eight hundred and seventy-three:

And whereas it is expedient to authorise—

(A.) Certain deviations from the lines of the railways A. and B. authorised by "The Central Ireland Railways Act, 1866:"

(B.) The abandonment of the portions of those railways for which the deviations will be substituted:

(C.) The abandonment of the whole of the railways C. and D. by that Act authorised:

(D.) The acquisition by the Waterford Company for the purposes of their railway and the works connected therewith of additional lands and houses in the townlands and parishes herein-after mentioned:

(E.) The acquisition by the Kilkenny Company for the purposes of their railway and the works connected therewith of additional lands and houses in the townlands and parishes herein-after mentioned:

(F.) And the execution of the other works as herein-after provided:

And whereas it is expedient that, as regards the residue of the railways authorised by "The Central Ireland Railways Act, 1866,"

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the times respectively limited as aforesaid for the compulsory purchase of lands and houses be revived and extended, and for the completion of those railways be extended as herein-after provided:

And whereas for the purposes of this Act plans and sections showing the situation, lines, and levels of the proposed deviation railways, and the lands which may be taken for the purposes thereof, and also plans of the said additional lands and houses, and books of reference to those plans respectively, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, have been deposited with the respective clerks of the peace for Queen's County, county of Kilkenny, and city of Kilkenny, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

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 Waterford and Central Ireland Railway Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 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," and "The Railways Traverse Act," Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) 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 two Companies" shall mean the Waterford and Central Ireland Railway Company and the Kilkenny Junction Railway Company; the expression "the Company," and the expression "the Undertakers," and the expression "Promoters of the under-

taking," shall include the two Companies and the Joint Undertaking Committee; the expression "the railway" or "the undertaking" shall mean the railways or undertakings by this Act authorised, or any part thereof; and all the provisions of sections 7, 8, and 9 of "The Railways Clauses Consolidation Act, 1845," shall be read and have effect as if the expression "clerks of the unions "within which such parishes are included in Ireland" were substituted for the expression "postmasters of the post towns in or nearest to such parishes in Ireland," and the words "clerks of unions" were substituted for the word "postmasters."

Power to make railways according to deposited plans.

4. Subject to the provisions of this Act, the Undertakers may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described, with all proper station, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated upon the deposited plans and described in the deposited books of reference as may be required for that purpose. The railways herein-after referred to and authorised by this Act are:

A deviation railway (No. 1) six miles six furlongs in length, commencing in the townland of Knockmay, in the parish of Borris, in Queen's County, by a junction with the Kilkenny Junction Railway at or near Conaberry Hill, and terminating in the townland of Townparks and parish of Rosenallis, in Queen's County, at a point on the road from Mountmellick to Rosenallis;

A deviation railway (No. 2) five miles one furlong eight chains and ten yards in length, commencing in the said townland of Townparks by a junction with the intended deviation railway No. 1 at or near the termination thereof, and terminating in the townland of Coolavoran, otherwise Coolagh and Derrymullen, and parish of Castlebrack, in Queen's County, by a junction with the railway (B.) secondly described in and authorised by "The Central Ireland Railways Act, 1866."

Power to cross certain roads on the level.

5. Subject to the provisions of "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, it shall be lawful for the Undertakers in the construction of the railways herein-before described to carry the same with a single line only, whilst the railways shall consist of a single line, and afterwards with a double line

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only, across and on the level of the roads next herein-after mentioned; (that is to say,)

No. on deposited Plan.	Townland.	Parish.	Description of Road.
71	Derrycloney -	Ardea - -	Public carriage road.
5A	Townparks -	Rosenallis -	Public carriage road.

Deviation of certain road.

6. It shall be lawful for the Undertakers in the construction of the railways herein-before described to alter and divert the public carriage road No. 21a on the deposited plan, in the townland of Knockmay and parish of Borris, and to carry the same across and on the level of the Kilkenny Junction Railway in the manner shown on the deposited plans.

For protection of the Great Southern and Western Railway Company.

7. The section numbered five of "The Central Ireland Railways Act, 1866," for the protection of the Great Southern and Western Railway Company, shall extend and apply to the deviation railway No. 1 by this Act authorised, and the works thereon, as fully and effectually as if that section were in this Act re-enacted especially with reference to that railway and those works.

Power to take additional lands for Waterford and Central IrelandRailway.

8. The Waterford Company may from time to time enter upon, take, and use for station accommodation, approaches, and other purposes connected with the Waterford and Central Ireland Railway all or any part of the lands shown on the deposited plans and described in the deposited book of reference, and situate in the townlands of Pennefather's Lot and Leggetsrath West, parish of St. John's, in the city of Kilkenny; of Leggetsrath West, parish of St. John's; of Bennettsbridge and Ballyredden North, parish of Treadingstown; of Blackwell, parish of Tullaherin; and of Newtown, parish of Thomastown, in the county of Kilkenny.

Power to take additional lands for Kilkenny Junction Railway.

9. The Kilkenny Company may from time to time enter upon and take and use for station accommodation, approaches, and other purposes connected with the Kilkenny Junction Railway all or any part of the lands shown on the deposited plans and described in the deposited book of reference, and situate in the townlands of Colt, parish of Clonenagh and Clonagheen; of Tullyroe, Knocknamoe, and Ballymullen, parish of Abbeyleix; and of Ballyraggett and Rathduff, parish of Donaghmore, in the county of Kilkenny.

Powers for compulsory purchases limited.

10. The powers of the Undertakers for the compulsory purchase of lands for the purposes of this Act, or of the Waterford and Central Ireland Railway, or of the Kilkenny Junction Railway, shall not be exercised after the expiration of three years from the passing of this Act.

Period for completion of works.

11. The deviation railways by this Act authorised 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 Undertakers for executing the railways or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as shall then be completed.

Railways to form part of undertaking authorised by Central Ireland Railways Act, 1866, and like tolls.

12. The railways and works by this Act authorised shall be deemed part of the railway of the Undertakers, as authorised by "The Central Ireland Railways Act, 1866," and the Undertakers may demand and take on and in respect of such railways tolls, rates, and charges not exceeding those specified in "The Kilkenny Junction Railway Act, 1860," provided that the maximum charges to be made upon or in respect of such railways shall not in any case to which maximum charges are applicable exceed those by that Act limited: Provided also, that in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways by this Act authorised and partly on the Kilkenny Junction Railway for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railways by this Act authorised and partly on the Kilkenny Junction Railway.

Certain works to be abandoned.

13. The Undertakers shall abandon the construction of—

(A.) The whole of the railway A., except the point of commencement thereof, and the whole of railways C. and D. authorised by "The Central Ireland Act, 1866:"

(B.) The railway B. authorised by that Act, from its authorised commencement up to the termination of the intended deviation railway No. 2 by this Act authorised.

Reducing capital, &c.

14. The total share capital authorised to be raised under "The Central Ireland Railways Act, 1866," is hereby reduced by the amount of one hundred thousand pounds; and the powers of borrowing money on mortgage or bond under that Act are hereby

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reduced by the amount of thirty-two thousand pounds, and that Act shall be read and have effect as if the sum thereby authorised to be raised by shares by the Waterford Company were sixty thousand instead of one hundred and ten thousand pounds, and as if the sum thereby authorised to be borrowed on mortgage by that Company were twenty thousand instead of thirty-six thousand pounds, and as if the sum thereby authorised to be raised by shares by the Kilkenny Company were sixty thousand instead of one hundred and ten thousand pounds, and as if the sum thereby authorised to be borrowed on mortgage by that Company were twenty thousand instead of thirty-six thousand pounds.

Compensation for damage to land by entry, &c. for purposes of work abandoned.

15. The abandonment by the Undertakers under the authority of this Act of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Undertakers on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of the work, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Undertakers to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in "The Railways Clauses Consolidation Act, 1845," or "The Central Ireland Railway Act, 1866."

Compensation to be made in respect of portions of railways abandoned.

16. Where, before the passing of this Act, any contract may have been entered into or notice given by the Undertakers for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this Act, the Undertakers shall be released from all liability to purchase or to complete the purchase of any such lands; but, notwithstanding, full compensation shall be made by the Undertakers to the owners and occupiers or other persons interested in such lands 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," as amended by any subsequent Act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Reviving and extending time for

17. The powers by "The Central Ireland Railways Act, 1866," given for the compulsory purchase of lands and for the completion

of the railways may, for the purposes of the whole of railway E. by that Act authorised, and of so much of railways A. and B. by that Act authorised as is not directed by this Act to be abandoned, be exercised by the Undertakers as regards compulsory purchase within two years, and as regards completion within three years, from the passing of this Act, but not after the expiration of the said period of two years, or, as the case may be, three years.

purchase of land and completion of rest of Central Ireland Railways.

18. If the Undertakers fail within the period limited by this Act to complete the railway, including the railways hereby authorised and those as to which any powers are hereby revived or extended, the Undertakers shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost of the works, 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, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of 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 that section to an account opened or 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 warrant or order, and shall not be paid thereout except as herein-after 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 Undertakers were prevented from completing or opening such line by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Penalty for non-completion of railway.

19. 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 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 Undertakers by this Act, or by "The Central Ireland Railways Act, 1866," and for which injury or loss no compensation or inadequate compensation

Providing for application of penalty in compensation to parties injured by non-completion of railway.

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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 either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Chancery in Ireland thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Undertakers are insolvent and have been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Undertakers, or be otherwise applied as part of the assets of the Undertakers for the benefit of their creditors.

Deviation of roads over additional lands authorised to be taken, &c.

20. Subject to the provisions of this Act, the Undertakers may make an alteration or deviation of each of the public carriage roads following, numbered respectively on the plans referred to in the Waterford and Central Ireland Railway Act, 1872, in the manner shown on the said plans; (that is to say,) Nos. 4 and 6, respectively in the townlands of Ballykeoghan and Skeard, parish of Dunkit, and Nos. 3 and 1, respectively in the townlands of Bennetts-bridge and Blackwell, parishes of Treadingstown and Tullyherin, in the county of Kilkenny, and No. 21a, in the townland of Maryborough, parish of Borris, in the Queen's County.

They may stop up and discontinue as public carriage roads and appropriate to the purposes of the undertaking of the Waterford Company or of the Kilkenny Company, as the case may be, so much of each of the before-mentioned existing roads as will become unnecessary by reason of the construction of the said alterations or deviations.

They may stop up and discontinue as a public road so much of the public carriage road which crosses the Waterford and Central Ireland Railway on the level at or near the Kilmacow Station of that railway, in the parish of Dunkit and county of Kilkenny, as shown on the said plans, and may carry the said road across the said railway on the level at the point or place shown on the said plans.

They may stop up and discontinue as a public road so much of the public carriage road which crosses the Waterford and Central Ireland Railway on the level at or near the Bennotts-bridge station of that railway, in the parishes of Treadingstown and Tullyherin and county of Kilkenny, as shown on the said plans, and may carry the said road under the said railway by means of a bridge at the point or place shown on the said plans.

Extinguishment of rights of way, &c.

21. All rights of way over and along so much of the several roads which by this Act the Undertakers are empowered to stop up and discontinue shall be and the same are hereby extinguished.

Provision for protection of preference shareholders in Waterford and Central Ireland Railway Company.

22. Nothing in this Act or "The Central Ireland Railways Act, 1866," contained shall prejudice or affect the rights of the holders of preference shares in the capital of the Waterford Company, nor shall any money which, but for the passing of this Act, or of "The Central Ireland Railways Act, 1866," would have been applicable to the payment of dividends on such preference shares, be used or applied for any other purpose: Provided always, that any money payable from time to time to the Undertakers, or either of them, by the Great Western Railway Company out of receipts arising to them from traffic coming to their system viâ New Milford from Waterford, or the respective railways of the undertaking, and vice versâ, under the terms of any agreement entered into between the said Companies, may be applied to or towards the payment of interest upon the loan capital and dividends upon the share capital raised for the purposes of "The Central Ireland Railways Act, 1866," as amended by this Act.

Interest not to be paid on calls paid up.

23. The Undertakers shall not, out of any money by any Act authorised to be raised, 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 Undertakers 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 capital.

24. The Undertakers shall not, out of any money by any Act authorised to be raised by them, 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 Undertakers or either of them to construct any other railway or to execute any other work or undertaking.

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

25. Nothing herein contained shall be deemed or construed to exempt the railways 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.

26. All costs, charges, and expense of and incident to the preparing for and obtaining and passing of this Act, or in relation thereto, shall be paid by the Undertakers out of the first moneys received under the powers of "The Central Ireland Railways Act, 1866," or of this Act.

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