CHAPTER cxci.

An Act to enable the Waterford and Limerick Railway Company to make an Extension Railway and other Works; and for other purposes. [22nd July 1878.]

A.D. 1878.

WHEREAS it is expedient that the Waterford and Limerick Railway Company, incorporated by the Waterford and Limerick Railway Act, 1845, (herein-after called "the Company,") should be authorised to construct the extension railway, embankment, quay, or wharf wall, and other works by this Act authorised: 8 & 9 Vict. c. cxxxi.

And whereas it is also expedient that the Company should be authorised to raise additional capital for the making of those works and for improving their existing railways, and for the general purposes of their undertaking:

And whereas plans and sections showing the lines, situation, and levels of the said extension railway and the embankment, quay, or wharf wall, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, were duly deposited with the respective clerks of the peace for the county and city of Waterford and for the county of Kilkenny respectively, and which plans, sections, and books of reference are herein-after referred to as the deposited plans, sections, and books of reference:

And whereas it is expedient that the Company and the Waterford and Central Ireland Railway Company should be authorised to enter into and carry into effect working and other agreements as herein-after provided:

And whereas the purposes of this Act 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,

A.D. 1878.

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 as the Waterford and Limerick Railway Act, 1878.

Incorporation of general Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
14 & 15 Vict. c. 70.
23 & 24 Vict. c. 97.
27 & 28 Vict. c. 71.
14 & 15 Vict. c. 70.
8 & 9 Vict. c. 20.
26 & 27 Vict. c. 118.

2. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, as amended by the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, the Railways Act (Ireland), 1864, and the Railways Traverse Act, the Railways Clauses Consolidation Act, 1845, and Part I., relating to the construction of a railway, and Part II., relating to additional capital, of the Companies Clauses Act, 1863, sections thirteen, eighteen, and nineteen of the Railways Clauses Act, 1863, and the Harbours, Docks, and Piers Clauses Act, 1847, are (except

26 & 27 Vict. c. 92.
10 & 11 Vict. c. 27,

where expressly varied by this Act) incorporated with and form part of this Act: Provided nevertheless, that the provisions of the Harbours, Docks, and Piers Clauses Act, 1847, with respect to "lifeboats" and "with respect to keeping a tide and weather gauge" shall not be in force for the purposes of this Act, except so far as from time to time the same may be required by the Board of Trade.

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 Company" means the Waterford and Limerick Railway Company; the expression "work" in sections thirteen,

26 & 27 Vict. c. 92.

eighteen, and nineteen of the Railways Clauses Act, 1863, means the embankment, quay, or wharf wall by this Act authorised; the expression "the railway" means the railway by this Act authorised or any part thereof, and all the provisions of sections seven, eight,

8 & 9 Vict. c. 20.

and nine of the Railways Clauses Consolidation Act, 1845, shall be read and construed as if the expression "clerks of the unions "within which such parishes are included in Ireland" or the words "clerks of the union," as the case may be, had been used and inserted in such sections in lieu of the expression "the postmasters "of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmasters," as the case may be.

Power to make extension railway, &c. according to deposited plans.

4. Subject to the provisions of this Act the Company may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the extension railway and the embankment, quay, or wharf wall herein-after described, with all proper stations, sidings, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, and use such of

the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The extension railway and the embankment, quay, or wharf wall hereinbefore referred to and authorised by this Act are:

(A.) A railway, in this Act called the extension railway, four furlongs and two chains in length, commencing in the townland of Newrath in the parish of Kilculliheen in the county of Waterford by a junction with the Waterford and Limerick Railway at a point on that railway one hundred and sixty yards or thereabouts eastward of the east end of the old terminus or goods station of that railway, and terminating in the townland of Mount Misery in the parish of Kilculliheen in the county of the city of Waterford in the old timber yard at a point in the south-east corner of that timber yard at or near the southern end of the lane or passage leading under the house No. 13, Sion Row, from the public road leading from Waterford to New Ross to the River Suir:

(B.) An embankment, quay, or wharf wall, commencing in the townland of Mount Misery in the parish of Kilculliheen in the county of the city of Waterford on the left bank of the River Suir near the north end of the bridge over the River Suir at Waterford, and terminating in the said townland of Mount Misery on the said left bank of the River Suir at the point in said old timber yard herein-before described as the point of the termination of the extension railway herein-before described:

Provided always, that the railway shall not be carried on the level across the station sidings shown on the property numbered 12 on the deposited plans, but the said sidings shall be removed.

Lateral and vertical deviations.

5. In the construction of the embankment, quay, or wharf wall the Company may from time to time deviate from the lines and levels of the works as shown on the deposited plans and sections laterally to any extent not exceeding the limits of deviation shown on those plans respectively, and vertically to any extent not exceeding five feet from the levels shown on those sections respectively.

Railways and works to form part of Company's undertaking.

6. The extension railway, embankment, quay, or wharf wall and works by this Act authorised to be constructed shall for all purposes of tolls, rates, and charges, and for all other purposes whatsoever, be part of the undertaking, railway, works, and property of the Company.

A.D. 1878.

Provision as to use by public of portion of embankment, quay, or wharf wall.

7. With reference to the embankment, quay, or wharf wall by this Act authorised the following provisions shall have full and complete effect:

(A.) When and so soon as the quay has been completed and opened for public traffic the south-eastern portion of the quay for a space of one third or five hundred and twenty feet or thereabouts in length, in this section called the public quay, measuring in a north-westerly direction from the south-eastern end of the quay sixty feet in width, shall be used by the Company and the public jointly, and subject to the user of the Company shall be under the jurisdiction and control and management of the mayor, aldermen, and burgesses of the borough of Waterford, in this section called the Corporation, free from toll to the Company, and in the same manner and to the same extent as the other public quays and streets in the said borough:

(B.) The Company shall make, lay down, and maintain their lines of rails on the said public quays so that the tops of the rails shall be level or flush with the surface of the said public quay:

(C.) The Company shall keep in repair and maintain so much of the roadway or surface of the quay as lies between the lines of rails laid down thereon, and the Corporation shall maintain and keep in repair all the rest of the said public quay and shall light the same:

(D.) Notwithstanding anything in this Act contained the Company shall not levy or collect any tolls, rates, dues, or other charges upon or in respect of the public quay on or for any passengers, animals, goods, wares, or merchandise other than those coming from or destined for the undertaking of the Company or of any railway company lawfully using the same:

(E.) The Corporation shall not levy or collect any tolls, rates, dues, or other charges at or upon the public quay in respect of passengers, animals, goods, wares, or merchandise landed, transhipped, or embarked for or by the Company at or from the public quay:

(F.) The Company shall make a convenient passage or entrance not less than thirty-five feet wide connecting the south-east end of the said public quay with that portion of the public road leading from Waterford to New Ross which is opposite the house known as thirteen, Sion Row, and for

that purpose shall take down and remove said house, and the said passage or entrance shall for all the purposes of this section be considered part of and included in the public quay.

Power for the Company to raise additional capital.

8. The Company from time to time may, for the purposes of this Act and for the general purposes of their undertaking, raise any capital not exceeding in the whole the sum of one hundred thousand pounds exclusive of the moneys which they are or may be authorised to raise by any other Act or Acts of Parliament, and such capital of one hundred thousand pounds may be raised by the issue at the option of the Company of new ordinary shares or stock or new preference shares or stock, or wholly or partially by any one or more of those modes respectively; and the clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (that is to say,)

8 & 9 Vict. c. 16.

The distribution of the capital of the Company into shares;
The transfer or transmission of shares;
The payment of subscriptions and the means of enforcing the payment of calls;
The forfeiture of shares for nonpayment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of borrowed money into capital;
The consolidation of the shares into stock;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act, 1863, shall extend and apply to the Company, and to the additional capital which they are by this Act authorised to raise.

26 & 27 Vict. c. 118.

Shares not to issue until one-fifth part paid up.

9. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

New shares or stock to be subject to same incidents as

10. The capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents what-

A.D. 1878.

other shares or stock.

soever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

11. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

Power to borrow in respect of additional capital.

12. In addition to any moneys which the Company are authorised to borrow by the recited Acts they may from time to time borrow on mortgage, in respect of the additional capital of one hundred thousand pounds by this Act authorised to be raised by shares or stock, any sums not exceeding in the whole thirty-three thousand pounds, and the Company may, as each sum of thirty-three thousand pounds of such additional capital has been issued and accepted, and one half the amount of each sum has been paid up, borrow on mortgage in respect of each sum of thirty-three thousand pounds any sum or sums not exceeding in the whole eleven thousand pounds, but in no case shall any part of the said respective sums be borrowed until shares for so much of the said portion of the additional capital as is to be raised by means of shares are issued and accepted, and one half of such portion 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 shares for the whole of such portion in respect of which such borrowing powers are sought to be exercised have been issued and accepted, and that one half of such portion has been paid up, and that not less than one fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up, and that such shares or stock, as the case may be, were issued and accepted, and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as such capital is raised by shares, that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same, and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient,

8 & 9 Vict. c. 16.

he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof. A.D. 1878.

As to appointment of a receiver.

13. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Existing mortgages to have priority.

14. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall, during the continuance of such mortgages and bonds, and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted, have priority over any mortgages granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock. 26 & 27 Vict. c. 118.

15. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys

16. All moneys raised by the Company under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied only to the purposes of this Act and the general purposes of the Company.

Receipt in case of persons not sui juris.

17. If any money is payable to a holder of shares or stock in the Company being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Lands for extraordinary purposes. 8 & 9 Vict. c. 20.

18. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed two acres.

Period for compulsory purchase of lands.

19. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

A.D. 1878.

Company liable to penalty if railways not opened within period limited.

20. If the Company fail within the period limited by this Act to complete the railway, they 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 in respect of which the penalty has been incurred is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the railway in respect of which the penalty has been incurred.

The said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the railway in reference to which the penalty has been incurred 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 the third section of the Railway and Canal Traffic Act, 1854.

17 & 18 Vict. c. 31.

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 on behalf of the Chancery Division of the High Court of Justice in Ireland in the bank and to the credit specified 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 Company was prevented from completing or opening the railway in respect of which the penalty has been incurred 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.

As to application of penalty.

21. If the Company do not, previously to the expiration of the period limited by this Act for the completion of the railway hereby authorised to be made, complete the said railway and open the same for the public conveyance of passengers, then any 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 in respect of which the penalty has been incurred, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of such railway, and

for which injury or loss no compensation or inadequate compensation 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 said Chancery Division 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 to or for the account of Her Majesty's Exchequer in such manner as the said Chancery Division 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 Company is insolvent and has 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 Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

As to crossing Ferry Bank Road.

22. In carrying the public road numbered on the deposited plans 8 in the townland of Mount Misery in the parish of Kilculliheen over the railway the Company shall make the inclination of that road when carried over the railway not steeper than one foot in forty feet on the south-eastern side and one foot in thirty-three feet on the north-western side.

Confirmation of level crossing of certain road in Granny. 14 & 15 Vict. c. cx. 18 & 19 Vict. c. lxxiii. 8 & 9 Vict. c. 20.

23. And whereas the road numbered 40 in the townland of Granny in the parish of Kilmacow on the plans referred to in the Waterford and Limerick Railway (Deviations) Act, 1851, which is crossed on the level by the railway of the Company was many years since diverted and carried under the railway: And whereas such diversion was by the twenty-first section of the Waterford and Limerick Railway Act, 1855, ratified and confirmed so far as the bridge and other works connected with such diversion were built in conformity with the regulations of the Railways Clauses Consolidation Act, 1845: And whereas the arch of the bridge for carrying the railway over the said road has been made of a width of twenty feet and of a height of twelve feet: And whereas the said road is but little used, and it is expedient to ratify and confirm the said diversion of that road: Therefore the alteration made by the Company in the said road, and the mode in which the railway of the Company has been carried across that road, shall be and the same is hereby ratified and confirmed.

A.D. 1878.

Period for completion of works.

24. If the extension railway and the embankment, quay, or wharf wall are not completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the extension railway and embankment, quay, or wharf wall, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Notice to be given of taking of houses of the labouring classes.

25. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Company to procure accommodation for persons of the labouring classes to be displaced.

26. Before taking in any parish fifteen houses or more occupied either wholly or partly by persons belonging to the labouring classes as tenants or lodgers who may for the time being be the occupier or occupiers of any house or part of any house which the Company are by this Act authorised to acquire, the Company shall (unless the Company and such person or persons otherwise agree) procure sufficient accommodation elsewhere for such person or persons: Provided always, that if any question shall arise as to the sufficiency of such accommodation the same shall be determined by a justice, and the Company may, for the purpose of procuring such accommodation, appropriate any lands for the time being belonging to them or which they have power to acquire, and may purchase by agreement such further lands as may be necessary for such purpose, and may on such lands erect labouring class dwellings, and may let or otherwise dispose of such lands and dwellings, and may apply for the purposes of this section or any of them any moneys they may have already raised or are authorised to raise.

Rates and tolls, &c. for quay or wharf wall. 23 & 24 Vict. c. clx.

27. Sections twenty-three, twenty-five, twenty-six, twenty-seven, and twenty-eight of the Waterford and Limerick Railway Act, 1860, shall apply to the embankment, quay, or wharf wall by this Act authorised, in the same way and to the same extent as if the said embankment, quay, or wharf wall had formed parts of the pier or wharf by that Act authorised, and the Company shall be entitled to charge in respect of the said embankment, quay, or wharf wall the rates and tolls authorised by those sections of the Waterford

and Limerick Railway Act, 1860, in respect of the pier or wharf by that Act authorised. A.D. 1878.

Power to appoint meters and weighers.

28. The Company may appoint and license a sufficient number of persons to be meters and weighers.

Power to enter into working agreements with Waterford and Central Ireland Railway Company. 26 & 27 Vict. c. 92. 36 & 37 Vict. c. 76.

29. The Company on the one hand, and the Waterford and Central Ireland Railway Company on the other hand, may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, as amended or varied by the Regulation of Railways Act, 1873, from time to time enter into agreements with respect to the following purposes or any of them; (that is to say,)

The maintenance and management of the extension railway and the embankment, quay, or wharf wall by this Act authorised, or of any part or parts thereof respectively, and of the works connected therewith respectively, or any part thereof:

The use or working of the extension railway and the embankment, quay, or wharf wall, or of any part thereof respectively, and the conveyance of traffic thereon:

The supply under any agreement for the railway being worked and used by the Waterford and Central Ireland Railway Company of any rolling or working stock and machinery necessary for the purposes of such agreement, and the appointment and employment of officers and servants:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting companies, and the fixing, collection, apportionment, and division between the said companies of the tolls, rates, charges, receipts, and revenues taken, levied, or arising from such traffic.

Saving rights of the Corporation of Waterford and Waterford Harbour Commissioners.

30. Except as otherwise expressly provided and declared by this Act, nothing in this Act contained shall extend to prejudice, diminish, alter, or to take away any of the rights, privileges, or powers enjoyed by the Corporation of the city of Waterford or the Commissioners for improving the port and harbour of Waterford.

Saving rights of the Crown in the foreshore.

31. Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which

A.D. 1878.

consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Interest not to be paid on calls paid up.

32. The Company shall not, out of any money by this 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, 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.

8 & 9 Vict. c. 16.

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

33. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

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

34. Nothing in this Act contained shall exempt the Company or the railways from the provisions of any general Act relating to railways, or 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, or of the rates for small parcels, authorised by any Act relating to the Company.

Expenses of Act.

35. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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