ANNO VICESIMO OCTAVO & VICESIMO NONO

# VICTORIÆ REGINÆ.

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## *Cap.* ccxxxii.

**An Act to enable the *West Cork* Railway Company to raise additional Capital; to maintain certain Portions of their Railway constructed beyond the authorized Limits; to extend the Time limited for Completion of Works; and for other Purposes. [5th *July* 1865.]**

WHEREAS by "The *West Cork* Railways Act, 1860," the *West Cork* Railway Company, herein-after called "the Company," were incorporated, and were authorized to make a Railway commencing by a Junction with the Line of the *Cork and Bandon* Railway Company in the Townland of *Cloghmacsimon*, Parish of *Ballymodan*, in the County of *Cork*, and terminating near the Town of *Skibbereen* in the Townland of *Marsh*, Parish of *Abbey Strowry* and County of *Cork*, and by the said Act the Company were empowered to raise a Share Capital of Two hundred thousand Pounds, and to borrow on Mortgage or Bond any Sum not exceeding Sixty-six thousand six hundred Pounds: And whereas the Company have made a considerable Portion of the said Railway, and are proceeding with the Execution of the Residue thereof, but

23 & 24 Vict. c. cciii.

their Powers of raising Money are insufficient for the Completion of their Undertaking, and it is expedient that they should be authorized to raise additional Capital by Shares and by borrowing, and to create and issue new Shares with a Preference Dividend or other Rights or Privileges attached, and to divide the Shares of their original Capital into Deferred and Preferred Half Shares: And whereas no Preference or Priority of Interest or Dividend or other Advantages on or in respect of any Shares in the Company has been granted by them in pursuance of any Act of Parliament or otherwise, nor is any such Preference or Priority in any Manner subsisting: And whereas it was found necessary to construct the Portions of the said Railway in this Act described, measuring in Length about Six Furlongs one hundred and forty-six Yards, in the Parish of *Ballymodan* in the said County, beyond the Limits of Deviation as laid down on the Plans thereof deposited as referred to in the said recited Act: And whereas Plans and Sections describing the Line and Levels of the said Deviations of the said Railway in the Parish of *Ballymodan*, with a Book of Reference to such Plans describing the Lands purchased by the Company for the same Portions of Railway, have been deposited for public Inspection with the Clerk of the Peace of the County of *Cork*, and it is expedient that the said Deviations of Railway should be legalized and made Part of the original Undertaking of the Company: And whereas it is also expedient that the Time limited by the said recited Act for the Completion of the Works thereby authorized should be extended: And whereas the several 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 of the Commons, in the present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Short Title.

**1.** This Act may be cited for any Purpose whatever as "The *West Cork* Railways Act, 1865."

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

**2.** The several Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following Matters, (that is to say,)

With respect to the Construction of the Act and of other Acts to be incorporated therewith;

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for Nonpayment of Calls;

With

With respect to the Remedies of Creditors of the Company against the Shareholders;

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of the borrowed Money into Capital;

With respect to the Consolidation of the Shares into Stock;

With respect to the giving of Notices; and

With respect to the Provision to be made for affording Access to the Special Act by all Parties interested;

Also the Provisions of "The Companies Clauses Act, 1863," Part I., with respect to Cancellation and Surrender of Shares; and Part II., with respect to additional Capital;

And also the Provisions of "The Railways Clauses Act, 1863," Part II., with respect to Extension of Time,

shall, so far as the same are not varied by the Provisions of this Act, be respectively incorporated with and form Part of this Act, and shall respectively apply to the Company and to the Shareholders thereof, and to all Capital authorized to be raised by Shares or borrowing for the Purposes of the recited Act and of this Act.

As to "Superior Courts" or "Court of competent Jurisdiction."

**3.** The Expression "Superior Courts," or "Court of competent Jurisdiction," or any other like Expression in this Act, shall be read and have effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute.

Power to raise additional Capital by Ordinary or Preference Shares or Stock.

**4.** The Company may from Time to Time raise (in addition to the Sums of Money which they are already authorized to raise) any further Sums, not exceeding in the whole One hundred and twenty thousand Pounds, by the Creation of new Shares of Ten Pounds each in their Undertaking, which Shares shall form Part of the general Capital of the Company.

Privileges may be attached to new Shares.

**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 General Meeting convened with due Notice of the Object, attach to all or any of the Shares to be created under the Powers of this Act any preferential Dividend, not exceeding Six *per Centum per Annum*, with or without other Privileges, which the Company may think fit, and may also attach to the said 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.

**6.** It

Shares not to issue until One Fifth paid up.

**6.** It shall not be lawful for the Company to issue any Share to be created under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Calls.

**7.** One Fifth of the total Amount of any Share issued under the Authority of this Act shall be the greatest Amount of any One Call thereon, and Three Months at the least shall be the Interval between successive Calls, and not more than Three Fourths of the Amount of a Share shall be called up in any One Year.

Disposition of new Shares.

**8.** All Shares created under the Powers of this Act may be disposed of in such Manner, and on such Terms and Conditions, and to such Persons, as the Company think fit.

Qualification of new Shareholders.

**9.** All Shares created under the Powers of this Act shall, in proportion to the aggregate nominal Value of such Shares held by the same Person at the same Time, confer the like Qualifications and Rights of voting as original Shares of the same aggregate nominal Value in the Capital of the Company would confer.

Unissued Shares and issued Shares, with Consent of Holder, may be cancelled.

**10.** If, after having created any new or original Shares in their Undertaking, the Company resolve not to issue the same or any Class or Part thereof, or if, having issued any such Shares, the Holders thereof shall consent to surrender the same, the Company may cancel the Shares to which such Resolution or Consent applies, and in lieu thereof may create and issue other Shares in One or more Classes, not exceeding the aggregate nominal Value of the Shares so cancelled.

Power to borrow on Mortgage.

**11.** The Company may from Time to Time (in addition to the Amount which they are authorized to borrow on Mortgage) borrow on Mortgage under this Act any Sum not exceeding Forty thousand Pounds: Provided, that the Company shall not borrow any Money under the Authority of this Act until the whole of the said additional Capital of One hundred and twenty thousand Pounds by this Act authorized to be raised by them by new Shares is *bonâ fide* subscribed for or taken, and One Half thereof is paid up, and until the Company shall have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of the said additional Capital has been subscribed for *bonâ fide*, and that One Half has been paid up, and that not less than Twenty *per Centum* has been paid up on each Share on the Issue or Acceptance thereof, and that such Shares are held by Subscribers or their Assigns, for which such Subscribers or their Assigns are legally liable to pay the Calls remaining

remaining unpaid on the same Shares respectively, of which Proof having been given the Certificate of such Justice under that Section shall be sufficient Evidence: Provided always, that all Mortgages granted by the Company before the passing of this Act, and on the passing of this Act in force, and all Mortgages which may be hereafter granted by the Company for the Purpose of redeeming the same or any Part thereof, shall, during the Continuance thereof respectively, have Priority over all Mortgages granted by the Company under this Act.

Priority of existing Mortgages.

**12.** The Mortgagees of the Company may enforce the Payment of the Arrears of Interest or of Principal and Interest due on their Mortgages by the Appointment of a Receiver, and the Amount to authorize the Requisition for a Receiver, in the event of the Principal Money not being duly paid, is Two thousand Pounds.

Arrears may be enforced by Appointment of a Receiver.

**13.** The Company may from Time to Time divide any of the original Shares in the Capital of the Company already issued, or to be hereafter issued, into Half Shares, on the Conditions herein-after mentioned.

Power to issue Capital in Half Shares.

**14.** Of every Two Half Shares created under the Powers of this Act, one shall be called "Preferred Share," and the other shall be called "Deferred Share."

Division of Half Shares into Two.

**15.** No such Division shall take place until Six Pounds at least shall have been paid on every Share so intended to be divided, of which Sum Five Pounds shall be attributed to the Deferred Share, and One Pound to the Preferred Share; and if such Division takes place when more than Six Pounds have been paid upon such Share, then Five Pounds of the Amount so paid up shall be attributed to the Deferred Share, which shall be so deemed to be paid up in full, and the Remainder of the Amount paid up shall be attributed to the Preferred Share; and all further Calls paid with respect to the said divided Share shall be attributed to the said Preferred Share.

Conditions of such Division.

**16.** From and after the Time when the Half Shares shall become entitled to Dividend, the Dividend which, if such Half Shares had been created and issued as entire Shares, would from Time to Time be payable thereon, shall be applied in Payment of Dividends on the Two Half Shares substituted for the entire Share as follows: The whole of the Interest and Dividends which shall accrue in each Year shall be applied in or towards Payment in the first place of Interest or Dividend after such Rate, not exceeding Five *per Centum per Annum*, as shall be determined by a General Meeting of the Company, on the Amount paid up on the Half Share so denominated "Preferred

Dividends on Half Shares.

"Preferred Share," and the Remainder, if any, in Payment of Dividend on the "Deferred Share."

Dividend on Two Half Shares not to exceed Dividend on One entire Share.

**17.** Provided always, That the Company shall not pay any greater Amount of Dividend on the Two Half Shares than would have from Time to Time been payable on the entire Share if the same had been created and issued as an entire Share.

As to Dividend on Preferred Shares.

**18.** Each Preferred Half Share shall be entitled to the preferential Dividend (if any) which may have been attached to it by the Company as aforesaid out of the Profits of each Year, in priority to the Deferred Share bearing the same Number.

Preferential Shares entitled only to Dividends out of the Profits of the Year.

**19.** If in any Year ending the Thirty-first Day of *December* there shall not be Profits available for the Payment of the full Amount of the preferential Dividend on any Share created by virtue of this Act for that Year, no Part of the Deficiency shall be made good out of the Profits of any subsequent Year, or out of any other Funds of the Company.

Option of converting existing Shares into Half Shares.

**20.** The Directors, with the Sanction of a General Meeting of the Company, from Time to Time may give to the Holders of the Shares in the existing Share Capital of the Company, upon which Shares not less than Sixty *per Centum* shall have been paid up on every Share so intended to be divided, the Option of having such Shares divided into Preferred Shares and Deferred Shares, and may fix the Period within which the Option may be exercised: Provided, that the Dividend on any such Preferred Share shall not exceed Five *per Centum per Annum*.

Notice of such Option to be given to Shareholders.

**21.** Within Ten Days after the Directors have resolved on giving any such Option they shall, by Letter under the Hand of the Secretary, delivered to every Holder of the Shares in question or sent by Post, addressed to him according to his Address in the Books of the Company, give Notice to him of such Option, of the Period within which it may be exercised, and of the Rate of Dividend to be payable on the Preferred Shares, and every such Notice given by Letter sent by Post shall be considered as given on the Day on which the Letter in due Course of Delivery ought to reach the Place to which it is addressed.

Shares as to which Option is exercised to be divided into Half Shares.

**22.** In every Case in which the Holder of any of the Shares in question gives within the Period fixed for exercising the Option Notice in Writing to the Secretary of the Company of the Intention of such Holder to avail himself of the Option, and specifying the Numbers of his Shares which he desires to be divided into Half Shares,

Shares, every Share so specified shall be divided into Two Half Shares, according to the Provisions of this Act.

Directors may enlarge Time for accepting Option.

**23.** Provided always, That the Directors, if they so think fit, but not otherwise, may permit any such Holder who, from Absence abroad or other Cause satisfactory to the Directors, omits to signify within the Period fixed for exercising such Option his Intention to avail himself of it, notwithstanding such Period shall have elapsed, as well in regard to the Shares in the existing Capital as in regard to the Shares authorized by this Act.

Half Shares to be registered and Certificates issued.

**24.** Forthwith after the Creation of any Half Shares the same shall be registered by the Directors, and each Half Share shall bear the same Number as the Number of the entire Share Certificate in respect of which it is issued, and the Directors shall issue Certificates of the Half Shares accordingly, and shall cause an Entry to be made in the Register of the entire Shares of the Conversion thereof.

Certificates of Shares to to express Conditions.

**25.** The Terms and Conditions on which any Preferred Share or Deferred Share created under this Act are issued shall be stated on the Certificate of each such Share.

Votes in respect of Half Shares.

**26.** All Half Shares held by the same Persons at the same Time shall confer Rights of voting in proportion to the Number of Ten Pounds into which the Sum paid up upon such Shares shall be capable of being divided.

Provisions of recited Act incorporated.

**27.** The several Provisions of the recited Act shall be incorporated with this Act, and shall apply to the Portions of the Railway by this Act authorized to be maintained in the same Manner in all respects as if the same Portions of the said Railway had been comprised within the Limits of Deviation of the Railway described in the deposited Plans referred to in the recited Act, and had been duly authorized by such Act.

Power to maintain Portions of Railway beyond Limits according to deposited Plans.

**28.** Subject to the Provisions in this Act and the recited Act and the Acts incorporated therewith contained, it shall be lawful for the Company to maintain the several Portions of the Railway as now existing herein-after described, with the existing Road and Occupation Bridges over the same, and the Works connected with the said Railway and Bridges, upon the Lands delineated on the Plans thereof deposited as herein-before mentioned and described in the Book of Reference thereto, and according to the Levels and Inclinations defined on the Sections to such Plans, and to continue to use such Lands for the Purposes of the said Portions of Railway and Works.

**29.** The

Describing Portions of Railway.

**29.** The Portions of the Railway and the Works connected therewith respectively by this Act authorized to be maintained are the following; (that is to say,)

First. So much of the *West Cork* Railway as is situate between a Point on the said Railway in the Townland of *Cloonmacsimon* in the Parish of *Ballymodan* in the County of *Cork* in or about Twenty Yards North from where said Railway crosses the Centre of *Shannon Street* in *Bandon* numbered Nineteen on the Plans referred to in the recited Act as having been deposited with the Clerk of the Peace for the County of *Cork*, and terminating at a Point on the said Railway in the same Townland, Parish, and County One hundred Yards Westward from the extreme North-west Angle of the Roman Catholic Church at *Bandon*, the whole of which said Portion of Railway between the said Points is situate in the said Townland of *Cloonmacsimon* in the said Parish of *Ballymodan* in the said County of *Cork*:

Second. So much of the said *West Cork* Railway as is situate between a Point on said Railway in the said Townland of *Cloonmacsimon* in the said Parish of *Ballymodan* and in the said County of *Cork* in or about One hundred and ten Yards Westward from the extreme North-west Angle of the Roman Catholic Church at *Bandon*, and terminating at or near a Point on the said *West Cork* Railway in the Townland of *Gully* in the said Parish of *Ballymodan* in the said County of *Cork* One hundred and thirty Yards Eastward of the South Entrance Avenue to *Castle Bernard* Demesne, which said Portion of Railway passes from, through, or into the Townlands of *Cloonmacsimon*, *Clancoolmore*, and *Gully*, or some of them, all in the said Parish of *Ballymodan* and County of *Cork*: Provided always, that the Inclination of the public Road numbered 48 on the said deposited Plans in the Town of *Bandon* shall be made not greater than One in Fifteen on the lower Side of the Bridge.

Tolls of Railway to be taken on Portions authorized by this Act.

**30.** From and after the passing of this Act it shall be lawful for the Company, subject nevertheless to the Provisions in this and the recited Act contained, to demand, receive, and take for and in respect of Passengers, and of the several Articles, Matters, and Things, and of all Descriptions of Animals, conveyed on the Portions of Railway by this Act authorized to be maintained, and also for the Use of Carriages and Locomotive Engines or other Power supplied by the Company thereon, such and the like Rates, Tolls, and other Charges as by the recited Act are authorized to be demanded and received for the like Passengers, Animals, Articles, Matters, and Things conveyed on the Railway thereby authorized to be made or constructed, and for the Use of the like Carriages and Locomotive Engines or other Power, as well for Ordinary as for Special Trains supplied by the Company

Company on the same Railway, in all respects the same as if the said Portions of Railway formed Part of the original Undertaking of the Company: Provided always, that in fixing the Rates, Tolls, and Charges to be taken or charged on the Portions of Railway by this Act authorized to be maintained, the same shall be calculated and imposed as Part of the existing Railway, and not as distinct and separate Railways.

Extension of Time for completing Works.

**31.** The Time limited by the recited Act for the Completion of the Railway and Works thereby authorized shall be and the same is hereby extended and enlarged until the Expiration of Two Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act, the recited Act, or the Acts incorporated therewith, granted to the Company for executing the Railway and Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the Railway and Works as shall then be completed.

Interest not to be paid on Calls paid up.

**32.** The Company shall not, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls or by borrowing, 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 Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as shall be in conformity with the Provisions of "The Companies Clauses Consolidation Act, 1845."

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

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

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

**34.** Nothing in this Act contained shall be deemed or construed to exempt the Railway of the Company from the Provisions of any General Act relating to Railways, or to the better and more impartial Audit of the Accounts of Railway Companies, now in force or which may hereafter pass during this or any future Session of Parliament, or from any future Revision and Alteration, under the Authority of Parliament, of the Rates for small Parcels, or of the maximum Rates of Fares and Charges, authorized by the recited Act.

Expenses of Act.

**35.** All the Costs, Charges, and Expenses of and incidental to the applying for, obtaining, and passing of this Act, and preparatory thereto, shall be paid by the Company.

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