

[9 EDW. 7.]

*Kilkenny Castlecomer and Athy  
Railway Act, 1909.*

[Ch. clviii.]



**CHAPTER clviii.**

An Act for making a railway in the counties of Kilkenny A.D. 1909.  
Queen's County and Kildare to be called the Kilkenny  
Castlecomer and Athy Railway and for other purposes.

[20th October 1909.]

**W**HEREAS the making and maintaining of the railway herein-  
after described and by this Act authorised would be of  
public and local advantage:

And whereas the persons in that behalf in this Act named  
with others are willing to construct the railway if authorised by  
Parliament so to do and are desirous of being incorporated into  
a company with adequate powers for the purpose and it is  
expedient that they be incorporated and empowered accordingly  
as by this Act provided:

And whereas it is expedient to confer the running powers  
and authorise the traffic facilities as by this Act provided:

And whereas plans and sections showing the line and levels  
of the railway authorised by this Act and also a book 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 clerks of the peace for the counties  
of Kilkenny Queen's County and Kildare and are hereinafter  
respectively referred to as the deposited plans sections and books  
of reference:

And whereas the purposes of this Act cannot be effected  
without the authority of Parliament:

[Price 2s. 3d.]

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A.D. 1909. May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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:—

PRELIMINARY.

Short title. 1. This Act may be cited as the Kilkenny Castlecomer and Athy Railway Act 1909.

Incorporation of Acts. 2. The following Acts and parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say):—

The Companies Clauses Consolidation Act 1845 and Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts;

The Lands Clauses Acts;

The Railways Clauses Consolidation Act 1845 and Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863.

Deposit of plans with clerks of district councils. 3. The provisions of sections 7 8 and 9 of the Railways Clauses Consolidation Act 1845 shall for the purposes of this Act be read and construed as if the expression "clerks of the urban " or rural districts within which the parishes are included in "Ireland" or the words "clerks of the urban or rural districts" (as the case may be) had been used and inserted in those sections in lieu of the expression "the postmasters of the post towns in or nearest to such parishes in Ireland" or in lieu of the word "postmasters" (as the case may be).

Interpretation. 4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Act unless the context otherwise requires—

15. "The Company" means the Company incorporated by this Act;

“The railway” means the railway by this Act authorised or any part thereof and the works connected therewith; A.D. 1909.

“The undertaking” means the undertaking by this Act authorised;

“The Southern Company” means the Great Southern and Western Railway Company.

#### INCORPORATION OF COMPANY CAPITAL &C.

5. Sir Anthony Arthur Weldon Baronet John Francis Smithwick Joseph Walshe Thomas Cantwell Richard Duggan John Alexander Duncan Thomas Plewman John Patrick Fogarty and all other persons who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the railway and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of the Kilkenny Castlecomer and Athy Railway Company and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act. Company incorporated.

6. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act. First ordinary meeting.

7. The number of directors shall be five but the Company may vary the number provided that the number be not at any time more than seven or less than three. Number of directors.

8. The qualification of a director shall be the possession in his own right of not less than fifty shares. Qualification of directors.

9. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested in any contract with the Company nor shall any director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit or As to qualification of directors.

A.D. 1909. becoming interested in any such contract Provided that in the case of his being or becoming interested in any contract with the Company whether such interest shall arise before or after his appointment as a director the nature of his interest in the contract shall be disclosed by him at the meeting of the directors at which the contract is determined on if his interest then exists or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment and also in the next annual report of the Company and that no director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

Quorum. **10.** The quorum of a meeting of directors shall be two when the number of directors does not exceed three and three when the number of directors does not exceed five and four when the number of directors exceeds five.

First and subsequent directors. **11.** Sir Anthony Arthur Weldon Baronet John Francis Smithwick Thomas Cantwell John Alexander Duncan and John Patrick Fogarty shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act.

At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act being if they continue qualified eligible for re-election.

At the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for varying the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845.

The several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are duly elected in their stead.

12. The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of the directors holding office shall be less than the minimum number prescribed by this Act the directors shall not except for the purpose of filling vacancies and allotting shares to any proposed director or directors act so long as the number is below such minimum.

A.D. 1909.  
Continuing  
directors.

13. Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected a director in place either of a director retiring by rotation or of a director dying refusing to act or ceasing to be qualified or being disqualified to act unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary to or left at the office of the Company fourteen days at least before the day of election.

Notice of  
candidature  
for office of  
director.

14.—(1) The directors may from time to time appoint one or more of their body to be managing director or managing directors either for a fixed term or without any limitation as to time and may remove or dismiss him or them from office and appoint another or others in his or their place or places.

As to ap-  
pointment of  
managing  
director.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto immediately cease to be a managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by any or all of those modes.

(4) The directors may entrust to and confer upon any managing director such of the powers exercisable by the directors and subject to such conditions as they may think fit and may from time to time revoke withdraw alter or vary all or any of such powers Provided that the directors shall be responsible for the acts of any managing director acting under the powers of this section.

A.D. 1909.

Capital.

15. The capital of the Company shall be two hundred and fifty thousand pounds in fifty thousand shares of five pounds each.

Issue of shares.

16. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person 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.

Calls.

17. One fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

18. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

As to appointment of proxies.

19. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder and for that purpose may execute on behalf of that shareholder the necessary form of proxy Provided that the instrument appointing the attorney shall be transmitted to the secretary of the Company at the same time as the instrument appointing the proxy.

Joint holders.

20. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any share any one of those persons may vote at any meeting either personally or by proxy in respect of the share as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the share shall alone be entitled to vote in respect thereof Several executors or administrators of a deceased member in whose name any share stands shall for the purposes of this section be deemed joint holders thereof.

**21.** The Company may issue any portion not exceeding one half of their authorised capital of two hundred and fifty thousand pounds as preference shares with any dividend or interest not exceeding the rate of six pounds per centum per annum and with such rights to priority in the distribution of assets and so that if the profits in any one year are not sufficient to pay such dividend or interest the deficiency may be made good out of the profits of any subsequent year or otherwise as they may think fit. The provisions of sections 13 and 15 of the Companies Clauses Act 1863 shall be applicable to the issue of such preference shares and to the Company in the same way as they apply to the issue of new preference shares provided that the amount of capital issued as preference shares under the provisions of this section shall not at any time exceed the amount of paid-up capital issued as ordinary shares.

A.D. 1909.  
Preference shares.

**22.** Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any shares or stock to which a preferential dividend shall be assigned.

Restriction as to votes in respect of preferential shares or stock.

**23.** 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 and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock.

**24.** The Company may create and issue as redeemable stock all or any portion of the debenture stock which they are by this Act authorised to create and issue and such stock created as redeemable stock shall be redeemed by the Company at such date or on such event and on such terms and conditions and in such manner as the Company may determine at the time of creating and issuing such stock.

Debenture stock may be redeemable.

**25.** The Company may from time to time borrow on mortgage of the undertaking any sum or sums not exceeding in the

Power to borrow.

A.D. 1909. whole one half part of the amount of the share capital of the Company at the time actually issued and accepted but no part of any such sum or sums shall be borrowed until the shares in respect of which the borrowing power is exercised are issued and accepted as aforesaid and one half thereof 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 such shares have been issued and accepted and that one half thereof has been paid up and that not less than one fifth part of the amount of each separate share issued and accepted has been paid on account thereof before or at the time of the issue or acceptance thereof and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Appoint-  
ment of re-  
ceiver.

**26.** The mortgagees of the undertaking 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 ten thousand pounds in the whole.

Application  
of moneys.

**27.** All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

#### CONSTRUCTION OF RAILWAY.

Power to  
make rail-  
way.

**28.** Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway hereinafter described with all proper stations sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes.

The railway hereinbefore referred to and authorised by this Act will be situate in the counties of Kilkenny Queen's County and Kildare and is—



A railway 26 miles 6 furlongs 5·5 chains or thereabouts in length commencing in the townland of Dunmore West parish of Dunmore Union and rural district of Kilkenny county of Kilkenny by a junction with the Great Southern and Western Railway (Waterford and Maryborough Branch) at a point in the centre line thereof measured in a south-easterly direction five hundred and ninety yards or thereabouts along the centre line of that branch railway from the mile post on that branch railway indicating the distance from Waterford of thirty-five miles and terminating in the townland of Athy parish of Saint Michael's urban district of Athy county of Kildare by a junction with the Great Southern and Western Railway at a point in the centre line thereof one hundred and twenty yards or thereabouts measured in a north-westerly direction along the centre line of that railway from the mile post on that railway indicating the distance of forty-five miles from Dublin. A.D. 1909.

**29.** The Company notwithstanding the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act may deviate laterally from the line of the railway as delineated on the deposited plans thereof to any extent within the limits of deviation shown on those plans and may deviate from the levels of the railway as delineated on the deposited sections thereof ten feet upwards or downwards and to any further extent upwards or downwards as may be agreed upon in writing with the owners of any lands through which and with the owners lessees and occupiers of any house affected by or through the curtilage of which such deviations are intended to be made and may increase any inclination or gradient of the railway shown on the deposited sections thereof as not steeper than one in forty to such an extent as they may see fit provided that such inclinations or gradients where so increased be not steeper than one in forty and they may diminish the radius of any curve prescribed on the deposited plans of the railway to any extent which shall leave a radius of not less than one furlong.

Powers of lateral and vertical deviation and of altering gradients and curves of railways.

**30.** Subject to the provisions in 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 the Company

Power to cross certain roads on level.

A.D. 1909: may in the construction of the railway carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the roads next hereinafter mentioned (that is to say):—

No. on deposited Plans.	Parish.	Description of Road.
31	Dunmore - - - - -	Public.
12	Kilmademoge - - - - -	Public.
32	Dysart - - - - -	Public.
16	Castlecomer - - - - -	Public.
35 & 38	Castlecomer - - - - -	Public.
99	Castlecomer - - - - -	Public.
148	Castlecomer - - - - -	Public.
175	Castlecomer - - - - -	Public.
187	Castlecomer - - - - -	Public.
191 & 195	Castlecomer - - - - -	Public.
11 & 13	Killabban - - - - -	Public.
66	Killabban - - - - -	Public.
203	Killabban - - - - -	Public.
293	Killabban - - - - -	Public.
313	Killabban - - - - -	Public.
12	Ballyadams - - - - -	Public.
29 & 1	(Part of) Saint John's - - - - -	Public.
3	Saint Michael's - - - - -	Public.

Inclination of roads.

**31.** In altering for the purposes of this Act the roads next hereinafter mentioned the Company may make the same of any inclinations not steeper than the inclinations hereinafter mentioned in connection therewith respectively (that is to say):—

No. on deposited Plans.	Parish.	Description of Road.	Intended Inclination.
8	Dunmore - - - - -	Public - - - - -	1 in 20
24	Dunmore - - - - -	Public - - - - -	1 in 30
15	Mothell - - - - -	Public - - - - -	1 in 30
108	Castlecomer - - - - -	Public - - - - -	1 in 20
191 & 195	Castlecomer - - - - -	Public - - - - -	1 in 20
66	Killabban - - - - -	Public - - - - -	1 in 20
134	Killabban - - - - -	Public - - - - -	1 in 20
165	Killabban - - - - -	Public - - - - -	1 in 6
203	Killabban - - - - -	Public - - - - -	1 in 20
239	Killabban - - - - -	Public - - - - -	1 in 20
259	Killabban - - - - -	Public - - - - -	1 in 20
313	Killabban - - - - -	Public - - - - -	1 in 20

Height and span of bridges.

**32.** The Company may make the arches of the bridges for carrying the railway over the roads next hereinafter mentioned of any heights and spans not less than the heights and spans

hereinafter mentioned in connection therewith respectively (that is to say) :—

A.D. 1909.

No. on deposited Plans.	Parish.	Description of Road.	Height.	Span.
8	Dunmore - - -	Public - - -	15 feet	25 feet.
60	Castlecomer - - -	Public - - -	16 feet	25 feet.
112	Killabban - - -	Public - - -	16 feet	25 feet.
263	Killabban - - -	Public - - -	15 feet	25 feet.

**33.** The Company may make the roadway over the bridges by which the following roads will be carried over the railway of such width between the fences thereof as the Company think fit not being less than the respective widths hereinafter mentioned in connection therewith respectively (that is to say) :—

Width of roadways over bridges.

No. on deposited Plans.	Parish.	Description of Roadway.	Width of Roadway.
24	Dunmore - - -	Public - - -	25 feet.
15	Mothell - - -	Public - - -	25 feet.
66	Castlecomer - - -	Public - - -	25 feet.
108	Castlecomer - - -	Public - - -	25 feet.
85	Killabban - - -	Public - - -	25 feet.
130	Killabban - - -	Public - - -	25 feet.
165	Killabban - - -	Public - - -	25 feet.
239	Killabban - - -	Public - - -	25 feet.
259	Killabban - - -	Public - - -	25 feet.

**34.** Notwithstanding anything contained in section 46 of the Railways Clauses Consolidation Act 1845 the Company shall not be liable to maintain the surface of any road or public highway which shall be carried over the railway by a bridge or bridges or the immediate approaches to such bridge or bridges unless the levels of such road or public highway or bridge approach shall be permanently altered so as to increase the gradient of any part thereof.

Company not liable to repair surface of road gradient of which is not altered.

**35.** The provisions of sections 18 to 23 of the Railways Clauses Consolidation Act 1845 shall for the purposes of this Act extend and apply to the water and gas mains pipes and apparatus of any local authority and shall be construed as if "district council" were mentioned in those sections in addition to "company or society" Provided that any penalties recovered under section 23 shall be appropriated to that fund of the

Protection of gas and water mains of local authorities.

A.D. 1909. district council to which their revenues in respect of water or gas (as the case may be) are appropriated.

For protec-  
tion of  
Southern  
Company.

**36.** Notwithstanding anything in this Act contained or shown on the deposited plans and sections the following provisions shall apply and have effect for the protection of the Southern Company unless otherwise agreed upon between the Company and the Southern Company (that is to say) :—

- (1) Nothing in this Act contained shall authorise the Company without the consent of the Southern Company to take or acquire or except subject as hereinafter in this section provided to use or interfere with any lands belonging to the Southern Company but the Company may purchase and take and the Southern Company shall sell and grant an easement or right of using the same so far as may be necessary for the purposes of junctions of the railway with the railway of the Southern Company :
- (2) The respective junctions of the railway with the railways of the Southern Company and all other works in connection therewith or subsidiary thereto including the new works sidings and conveniences rendered necessary in consequence of the interference by the Company with the existing sidings works and conveniences of the Southern Company shall be constructed by the Southern Company to the reasonable satisfaction of the Company in such manner in all respects as shown on plans numbered 538/2 and 538/4 signed by Samuel Gordon Fraser on behalf of the Company and by Albert Gordon on behalf of the Southern Company and the reasonable expense of such construction by the Southern Company shall be paid by the Company to the Southern Company :
- (3) The Southern Company shall maintain the said junctions and works in connection therewith in substantial repair and good order and condition to the reasonable satisfaction in all respects of the Company and when necessary renew and alter the same and all necessary and reasonable costs and expenses of or incidental to the said maintenance and of any such renewal or alteration including the cost of working signals and

points at or in connection with the said junctions respectively and all expenses incurred by the Southern Company in or in connection therewith shall be repaid to the Southern Company by the Company at the end of each half year and in default of repayment any sum or sums so owing may be recovered with full costs by the Southern Company from the Company in any court of competent jurisdiction: A.D. 1909.

- (4) The Company shall if and when required by the Southern Company acquire and convey to the Southern Company free of charge the lands in the parish of Saint Michael's and urban district of Athy in the county of Kildare as are shown and coloured red on the plan numbered 538/6 signed by the said Samuel Gordon Fraser and Albert Gordon required in connection with the sidings works and conveniences at Athy referred to in subsection (2) hereof:
- (5) During the construction of the said junctions or any other works in the vicinity thereof under the powers of this Act the Company shall bear and on demand pay to the Southern Company the reasonable expenses of the employment by the Southern Company of a sufficient number of inspectors and watchmen to be appointed by them for watching any railway or works of the Southern Company with reference to and during the execution of the works of the Company and for preventing as far as may be all interference obstruction danger and accident which may arise to any railway or works of the Southern Company or to the traffic on any railway of the Southern Company from any of the operations or from acts or defaults of any person or persons in the employment of the Company or their contractors in reference thereto or engaged in connection with the construction of the said junctions or works or otherwise:
- (6) During the construction of the said junctions by the Southern Company the Company their agents contractors servants or workmen shall not obstruct impede or interfere with the free and uninterrupted and safe use of the railways and works of the Southern Company or with the traffic on any such railway and if by

A.D. 1909.

reason of any proceedings of the Company or their agents or servants any such obstruction or interference shall be so caused to the traffic of or upon the railways of the Southern Company the Company shall pay to the Southern Company as liquidated damages twenty pounds for every hour during which any such obstruction or interference shall continue:

(7) Notwithstanding anything in this Act contained the Company shall be responsible for and make good to the Southern Company all losses costs damages and expenses which may be occasioned to them or to any of their railways works or property or to the traffic on any such railway or to any company or person using the same or otherwise during the execution or the failure of or by reason of the failure to construct any works of the Company or of any act or omission of the Company or any person in their employ or their contractors agents or others and the Company shall effectually indemnify and hold harmless the Southern Company from all claims or demands upon or against them by reason of such execution or failure or any such act or omission:

(8) The Company shall at their own expense provide and maintain at points and in positions to be agreed upon between the Company and the Southern Company or failing agreement to be settled by arbitration in manner hereinafter provided at or near the junction of the railway with the Maryborough and Kilkenny Railway of the Southern Company sufficient and suitable accommodation for the housing of signalmen employed at the said junction similar to and having the like facilities as the accommodation provided by the Southern Company for signalmen at or near any of the junctions of the railways of that company:

(9) The Company shall grant to the Southern Company free of charge the right of entering upon and using for the purpose of the construction and maintenance of the said junctions respectively all lands of the Company at or adjacent to the points at which such junctions are to be made but nothing in this section contained shall require the Southern Company to

commence the construction of either of the said junctions or any works connected therewith or dependent thereon until the Company shall have laid down and completed to formation level under the superintendence and to the reasonable satisfaction of the engineer of the Southern Company a length of eight miles of the railway measured from either of the said points of junction within the limits of deviation shown on the deposited plans and sections and shall have deposited with the Southern Company the whole or so much as the Southern Company may require of the estimated cost of constructing the said junctions and all other necessary works in connection therewith respectively as certified and approved of in writing under the hand of the engineer of the Southern Company:

A.D. 1909.

- (10) If at any time after the completion and opening of the railway for public traffic any enlargement extension or alteration of Kilkenny and Athy Stations or either of the said stations is in the opinion of the Southern Company rendered necessary by reason of the exercise by the Company under the powers of this Act of running powers or user of the Kilkenny Station of the Southern Company or in connection with the junction of the railway with the Waterford and Maryborough Branch of that company's railway by this Act authorised such enlargement extension or alteration shall be carried out by the Southern Company in every respect at the expense of the Company but the Southern Company shall one month before commencing any such enlargement extension or alteration supply to the Company plans and an estimate of the cost thereof and if the Company shall be of opinion that the whole or any part of the works described in the said plans is or are unnecessary or that the estimate of the cost thereof is excessive or unreasonable they shall within one month after the receipt thereof give notice of their objection to the Southern Company and the difference shall be referred to and determined by arbitration as hereinafter mentioned and the Southern Company shall on receipt of the award in any such

A.D. 1909.

arbitration and on having deposited with them so much as they may require of the estimated cost' (as certified and approved in writing under the hand of the engineer of the Southern Company) of any works ordered to be done by or as a result of such award forthwith carry out and complete such works with all reasonable despatch and the Company shall thereupon pay to the Southern Company the reasonable costs and expenses of any such works:

- (11) The provisions of this section shall be in addition to and not in substitution for the provisions of this Act and of the Acts incorporated therewith to the benefit of which the Southern Company is entitled:
- (12) In the event of any dispute or difference arising between the Company and the Southern Company under any of the provisions of this section with reference to any of the matters aforesaid or as to any of the requirements of the Company or the Southern Company or their respective engineers relating to the same such dispute shall be referred to and determined by an arbitrator to be agreed upon by the two Companies or in default of agreement to be appointed by the Board of Trade on the application of either Company and the arbitrator shall have authority to determine by whom the costs of such reference shall be paid and his decision shall be final and binding upon both Companies.

For protection of  
Richard  
Henry Prior-  
Wandesforde.

**37.** Notwithstanding anything in this Act contained or shown on the deposited plans the following provisions shall apply and have effect for the protection of Richard Henry Prior-Wandesforde his heirs executors administrators and assigns (in this section referred to as "the owner") unless otherwise agreed upon between the Company and the owner (that is to say):—

- (1) The Company shall commence the construction of the railway at its commencement hereinbefore described and shall use all reasonable despatch in completing it up to the point marked upon the deposited plans as indicating the distance measured from the commencement of the railway of twelve miles six furlongs:
- (2) The Company shall at their own expense and to the reasonable satisfaction of the owner provide such



branch railways tramways sidings and other works, in connection therewith from the railway as the owner may by notice in writing reasonably require for the conveyance of traffic from and to the existing and any future shafts sunk and worked by the owner for the purpose of developing the coal seam known as the Skehana coal seam: A.D. 1909.

- (3) The Company shall also but at the expense of the owner provide such other branch railways tramways sidings and other works in connection therewith from the railway as the owner may by notice in writing reasonably require for the conveyance of traffic from and to any existing or future coal shafts situate within the rural district of Castlecomer sunk and worked by the owner:
- (4) The Company shall also at their own expense and to the satisfaction of the owner provide such additional siding accommodation on the railway as he may by notice in writing reasonably require for the accommodation of the traffic referred to in the two immediately preceding subsections:
- (5) The Company shall apply for and use their best endeavours to obtain at the expense of the Company or of the owner as the case may be such further powers as may be necessary to enable them to comply with the provisions of this section:
- (6) The provisions of the sections of this Act whereof the marginal notes are respectively "Persons under disability may grant easements &c." and "As to limited owner" shall extend and apply to any land required for the purpose of any such branch railway:
- (7) The Company shall provide such engines waggons and carriages as may be reasonably necessary for working the traffic to and from collieries on the lands of the owner now open and worked or which may hereafter be opened and worked and shall afford all reasonable facilities for the conveyance of such traffic to and from such collieries including the benefit of any through rates in force for the time being in relation to mineral traffic:

A.D. 1909.

(8) The rates and charges to be charged by the Company for traffic conveyed by them over any such branch railway or tramway shall not exceed the rates and charges in force for the time being on the railway and shall be calculated and charged from the actual point of loading or unloading on such branch railway or tramway :

(9) Any difference under this section shall be referred to and determined in Ireland by an arbitrator to be appointed by the Board of Trade on the application of the owner or of the Company and the decision of such arbitrator shall be final and binding on the parties in difference and the costs and expenses of such arbitration shall be defrayed as the arbitrator shall direct.

Confirming agreement with Richard Henry Prior-Wandesforde.

**38.** The agreement made the twenty-first day of July one thousand nine hundred and nine between George Dodds Perks for and on behalf of the promoters of the Bill for this Act of the one part and Richard Henry Prior-Wandesforde of the other part as set forth in the schedule to this Act is hereby confirmed and made binding on the Company and the said Richard Henry Prior-Wandesforde respectively.

For protection of War Department.

**39.** Nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by His Majesty's Principal Secretary of State for the War Department or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary of State without his previous consent signified in writing under his hand and which consent the said Principal Secretary of State is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the Company.

Deposit fund not to be repaid except so far as railway is opened.

**40.** Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of twelve thousand eight hundred pounds two and a half per centum consolidated stock (hereinafter referred to as "the deposit fund") being equal to five per centum upon the amount of the estimate in respect of the railway has been deposited with the Accountant-General of the Supreme Court in Ireland in respect of the application to Parliament for this Act

Be it enacted that notwithstanding anything contained in the said Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section. Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the High Court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed ~~anything in the above-mentioned Act to the~~ contrary notwithstanding.

41. If the Company do not previously to the expiration of ~~the~~ period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the Dublin Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such

Application  
of deposit  
fund.

A.D. 1909. proportions as to the High Court may seem fit And if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or retransferred to the depositors Provided that until the deposit fund has been repaid or retransferred to the depositors or has become otherwise applicable as hereinbefore mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Assessment  
of railway  
to local rates.

**42.** For a period of fifteen years from the opening of the railway or any part thereof for public traffic the railway or so much thereof as is opened for traffic together with all stations yards works and lands connected therewith shall not be assessed to any local rates other than any water rate at a higher value than that at which the land occupied by or in connection with the railway stations yards and works or such part thereof as is opened for public traffic would have been assessed if it had remained in the condition in which it was immediately before it was acquired for the purposes of the railway stations yards and works or such part thereof as aforesaid.

Period for  
completion  
of railway.

**43.** If the railway is not completed within four 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 railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

#### LANDS.

Portion of  
capital to be  
subscribed  
before com-  
pulsory  
powers put  
in force.

**44.** When not less than two hundred thousand pounds of the share capital by this Act authorised shall have been subscribed and paid up it shall be lawful for the Company to put in force the powers of the Lands Clauses Acts or this Act or any other Act in relation to the compulsory taking of land for the purposes of this Act and if such portion of capital shall not have been so subscribed and paid up within a period of two years from the

passing of this Act the powers conferred upon the Company by this Act shall cease. A.D. 1909.

**45.** A certificate under the hand of the justice certifying that the said sum of two hundred thousand pounds has been subscribed and paid up as aforesaid shall be sufficient evidence thereof and on the application of the Company and the production of such evidence as the justice shall think proper and sufficient the justice shall grant a certificate accordingly. Certificate of justice that portion of capital has been subscribed.

**46.** The Company may for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 and for the general purposes of the undertaking purchase lease or take by agreement and hold any lands not exceeding in the whole fifty acres in addition to the lands which they are by this Act authorised to take by compulsion but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land so taken. Lands for extraordinary purposes.

**47.** Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively. Persons under disability may grant easements &c.

**48.**—(1) Any limited owner as defined in this Act may with the sanction of the Commissioners of Public Works in Ireland (in this section called "the Commissioners") given under this section grant to the Company either without payment of purchase money or compensation or in consideration of the issue as hereinafter provided of shares or stock in the undertaking any land which the Company are authorised to purchase and take for the purposes of the railway and may convey the same free from all incumbrances thereon Provided that the costs or expenses incurred by such limited owner or any successor in title in the land or by the trustees (for the time being) hereinafter mentioned or by any incumbrancer on the land of all conveyances and assurances to the Company of such lands and of evidencing and verifying As to limited owner.

A.D. 1909. the title to the same or to the said shares or stock when issued to the trustees as hereinafter provided and of appearing before the Commissioners shall be paid by the Company and such costs and expenses may be taxed in manner provided in respect to costs incurred under the provisions of the Railways Act (Ireland) 1864 and if within seven days after demand of the amount certified the same be not paid it may be recovered in the manner provided by the thirteenth section of the Railways Act (Ireland) 1851.

(2) The Commissioners shall not give their sanction under this section unless they are satisfied that the estate of which the land so to be purchased and taken forms part will be permanently increased in value by the construction of the railway. Provided always that in the case of a free grant of land by the limited owner to the Company the Commissioners shall certify that in their opinion the said estate will be permanently increased in value to an amount greater than the value of the land so granted and in case such land shall be granted in consideration of the issue of shares or stock that in the opinion of the Commissioners the said estate will be permanently increased in value to an amount exceeding the difference between the value of the land so granted and the actual value of such shares or stock at the date of the transfer or conveyance of the land to the Company. Provided also that if the land proposed to be granted is subject to incumbrances the Commissioners before giving their sanction under this section shall cause notice to be given to the incumbrancers and shall consider the objections (if any) raised by them.

(3) Where any limited owner grants any land to the Company in consideration of the issue of shares or stock in the undertaking the amount of such shares or stock shall be equal in nominal value to the purchase money of such land and such shares or stock shall be issued to two trustees nominated by the limited owner to be held by them upon the like uses and trusts and for the same purposes as the estate of which such land formed part stood settled. Provided that such shares or stock shall be deemed to be shares or stock fully paid up of the undertaking.

(4) If either or both of the trustees die resign or become incapable of acting then the limited owner or his successor in title may nominate by writing under his hand another person or other persons to be a trustee or trustees in place of the

trustee or trustees having died resigned or become incapable of acting. A.D. 1909.

(5) If any one trustee die resign or become incapable of acting the remaining trustee shall continue to be as competent to act as if no such deficiency in number had occurred and no act of the surviving trustee shall be invalidated or illegal by reason of the vacancy not being filled up or by reason of any irregularity or omission in or about any appointment of a new trustee or trustees.

(6) Trustees appointed under this section shall be indemnified against any claim or any loss by reason of their acting and taking and holding any shares or stock under the provisions and for the purposes of this section.

(7) The term "limited owner" in this section shall mean any person or persons by whom the powers of sale conferred by section 7 of the Lands Clauses Consolidation Act 1845 may under the authority of the said section be lawfully exercised.

49.—(1) The Company shall not under the powers of this Act purchase or acquire in any urban district any house or houses which on the fifteenth day of December last were occupied either wholly or partly by thirty or more persons belonging to the working class as tenants or lodgers or except with the consent of the Local Government Board for Ireland any house or houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

Restriction  
on taking  
houses of  
working  
class.

(2) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the said Local Government Board by action in the High Court in Ireland and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if they think fit reduce such penalty.

(3) For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "working class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some

A.D. 1909. — trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income in any case does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

As to private rights of way over lands taken compulsorily.

**50.** All private rights of way over any lands which shall under the powers of this Act be acquired compulsorily shall as from the date of such acquisition be extinguished. Provided that the Company shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Amendment of Lands Clauses Acts.

**51.** Notwithstanding anything to the contrary contained in the Lands Clauses Acts the draft award of the arbitrator determining the amount of compensation to be paid by the Company under those Acts in respect of the acquisition by the Company of lands or easements rights or privileges in over under through or across lands for the purposes of the railway or otherwise in connection therewith shall except in any case in which the amount awarded shall exceed the sum of two hundred pounds on the question of the amount of compensation be deemed to be final and binding and not subject to review or repeal.

Power to sell &c. lands.

**52.** Subject to the provisions of the Lands Clauses Consolidation Act 1845 the Company may retain hold and use and from time to time sell lease exchange or otherwise dispose of in such manner for such consideration and on such terms and conditions as they think fit and in case of sale either in consideration of a gross sum or of an annual rent or of any payment in any other form any lands or buildings or any interest in any lands or buildings acquired at any time or provided by them and not required for the purposes of the undertaking and may execute and do any deed act or thing proper for effectuating any such sale lease or other disposition and in any exchange may give or take any money for equality of exchange.

Period for compulsory purchase of lands.

**53.** Subject to the provisions of this Act the powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.



## RATES &amp;c.

A.D. 1909.

**54.** The Company may demand and take for the use of the railway by any other company or person with engines and carriages such reasonable tolls as they think fit.

Tolls.

**55.** The classification of merchandise traffic including perishable merchandise by passenger train and the schedule of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order 1892 which order is scheduled to and confirmed by the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892 shall be applicable and apply to the Company as if it were one of the railway companies named in the Order confirmed by the said Act. Provided that in respect of the conveyance of a consignment of perishable merchandise not exceeding fifty-six pounds in weight by passenger train the Company shall not be entitled to charge a higher rate than the maximum rate which they are authorised to charge for the conveyance of parcels of the same weight.

Rates for  
merchandise.

**56.** For the conveyance on the railway of small parcels not exceeding five hundred pounds in weight by passenger trains the Company may demand and take any charges not exceeding the following (that is to say):—

Charges for  
small parcels.

For any parcel not exceeding seven pounds in weight three-pence;

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight fivepence;

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight sevenpence;

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight ninepence; and

For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum they think fit:

Provided always that articles sent in large aggregate quantities although made up in separate parcels such as bags of sugar coffee meal and the like shall not be deemed small parcels but that term shall apply only to single parcels in separate packages:

A.D. 1909.

Provided also that the charges for agricultural or market garden produce not provided for by the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892 shall not exceed one half the maximum rates authorised by this section.

Maximum fares for passengers.

**57.** The maximum fares to be charged by the Company for the conveyance of passengers upon the railway including every expense incidental to such conveyance shall not exceed the following (that is to say):—

For every passenger conveyed in a first-class carriage three-pence per mile;

For every passenger conveyed in a second-class carriage two-pence per mile;

For every passenger conveyed in a third-class carriage one penny per mile;

For every passenger conveyed on the railway for a less distance than three miles the Company may charge as for three miles and every fraction of a mile beyond three miles or any greater number of miles shall be deemed a mile.

Passengers' luggage.

**58.** Every passenger travelling upon the railway may take with him his ordinary luggage not exceeding one hundred and fifty pounds in weight for first-class passengers one hundred and twenty pounds in weight for second-class passengers and one hundred pounds in weight for third-class passengers without any charge being made for the carriage thereof.

Foregoing charges not to apply to special trains.

**59.** The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway in respect of which the Company may make such charges as they think fit but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers upon the railway.

Information as to rates to be given to Department of Agriculture and Technical Instruction for Ireland.

**60.** The Company shall forthwith upon application from the Department of Agriculture and Technical Instruction for Ireland (in this section called "the department") supply to the department full information with reference to the following matters (that is to say):—

(1) As to any local or through rate or rates charged for the conveyance of traffic to or from any station or stations on the railway;

- (2) As to any tolls for the use of the railway and sidings of the Company by any other company or person with engines and carriages: A.D. 1909.

And the Company shall on the like application produce to the department or to any inspector or officer of the department any books or lists showing such rates and tolls or permit copies to be taken or supply copies thereof or extracts therefrom and shall also notify to the department the particulars of any proposed alteration in any of the said rates or tolls in respect of which information has been supplied under this section at the same time as notification thereof is given to the parties concerned. Any failure to comply with any of the provisions of this section shall be deemed to be an offence within the meaning of section 33 subsection (7) of the Railway and Canal Traffic Act 1888.

**61.**—(1) If the Company intend to propose any increase in fares rates or charges the provisions of subsection (6) of section 33 of the Railway and Canal Traffic Act 1888 shall apply to such intended increase except that one month's notice shall be substituted for the fourteen days' notice mentioned in that subsection. And the Company shall on the date of the issue of the notice as herein prescribed deliver to the Department of Agriculture and Technical Instruction for Ireland three copies of such notice. Notice as to rates.

(2) In this section the expression "rates" includes special or exceptional rates as well as all other descriptions of rates fares terminals and charges.

#### MISCELLANEOUS.

**62.**—(1) The Company may run over and use with their engines carriages and vehicles officers and servants but solely for the purpose of passenger traffic and passenger train traffic:— Running powers over Southern Railway.

So much of the Waterford and Maryborough Branch Railway of the Southern Company as lies between the point of junction with that railway of the railway and Kilkenny Station including that station;

together with all such roads platforms points signals water water engines engine sheds standing room for engines booking and other offices sidings junctions machinery works and conveniences as lie between the said point of junction and the said station and as regards such passenger and passenger train traffic the Company may demand and take upon and in respect of the said

A.D. 1909. portion of railway and station the same fares which the Southern Company are entitled to demand and take.

Terms of such user.

(2) The terms conditions and regulations to be observed and fulfilled including the times of the trains to be run by the Company and the tolls charges rent or other consideration to be paid by the Company for and in respect of the use of the said portion of railway and the said station works and conveniences shall be such as may be agreed upon between the Company and the Southern Company or failing agreement as may be determined on the application of the Company or the Southern Company by the Railway and Canal Commissioners or any two of such commissioners.

Byelaws to be observed.

(3) In running over and using the said portion of railway and the said station sidings works and conveniences in accordance with the provisions hereinbefore contained the regulations and byelaws for the time being in force on the railway so used shall be at all times observed so far as such byelaws shall be applicable.

(4) In exercising the running powers conferred upon them by this section—

(i) The Company shall not use any telegraphs constructed and maintained by the Postmaster-General for the service of the Post Office without his consent; and

(ii) In case the use by the Company of any telegraphs constructed and maintained by the Postmaster-General for the use of the Southern Company involves any expense to the Postmaster-General which he would not otherwise have incurred the Company shall repay such expense to the Postmaster-General. Any difference between the Company and the Postmaster-General as to the use of such last-mentioned telegraphs shall be determined on the application of either party by the Railway and Canal Commissioners or any two of such commissioners.

Reciprocal facilities for traffic with Southern Company.

**63.** From and after the completion and opening of the railway for public traffic the Southern Company on the one hand in respect of traffic of every description including mails passing or intended to pass to from or over the railway from or to any place on or beyond the railways of the Southern Company and the Company on the other hand in respect to the like traffic

passing or intended to pass to from or over the railways of the Southern Company from or to any place on or beyond the railway shall afford all reasonable facilities for the convenient working interchange receiving and forwarding of such traffic including through booking through tickets through fares and when reasonably required through carriages and waggons for the purposes of such traffic.

A.D. 1909.

Any dispute which may arise between the Company and the Southern Company as to the apportionment between them of any such through fare as aforesaid or as to any amount to be allowed charged or paid by one of them to the other of them for any facilities afforded under the provisions of this section shall be determined by an arbitrator to be appointed on the application of either the Company or the Southern Company by the Board of Trade.

**64.** Nothing in this Act shall be deemed to impose upon the Postmaster-General the obligation of transmitting under the provisions of the Telegraph Act 1868 or any agreement between the Postmaster-General and the Southern Company made in pursuance thereof any larger number of telegraphic messages of the Southern Company free or at a reduced rate of charge than he would have been bound to transmit had this Act not become law.

Saving for  
Postmaster-  
General.

**65.** During the exercise of any running powers by this Act conferred the railways of the two Companies shall for the purpose of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers conveyed partly on the railway and partly on the railways of the Southern Company rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only and in estimating the amount of rates and charges in respect of merchandise traffic conveyed partly on the railway and partly on the railways of the Southern Company the Company shall subject to the provision as to charges for agricultural or market garden produce contained in the section of this Act whereof the marginal note is "Charges for small parcels" be deemed to be a company connected with the Southern Company and specified in the schedule to the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order 1892 confirmed by the Railway Rates and

Short dis-  
tance  
charges in  
case of exer-  
cise of run-  
ning powers.

A.D. 1909. Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892.

Power to pay interest out of capital during construction.

**66.** Notwithstanding anything in this Act or in any Act or Acts incorporated herewith the Company may out of any money by this Act authorised to be raised pay interest at such rate not exceeding four pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say):—

- (A) No such interest shall begin to accrue until the Company shall have deposited with the Board of Trade a statutory declaration by two of the directors and the secretary of the Company that two thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same:
- (B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear:
- (C) The aggregate amount to be so paid for interest shall not exceed fifteen thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid:
- (D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares which may be issued by or on behalf of the Company prior to the expiration of the period for which the directors of the Company may have determined that such interest shall be paid and in every certificate of shares:

(E) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section. A.D. 1909.

Save as hereinbefore set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this 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.

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

**68.** Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown. Crown rights.

**69.** Nothing in this Act contained shall exempt the Company or any other company named in this Act or the railways of any such company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the commencement of this Act 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 to be taken by the said companies respectively. Provision as to general Railway Acts.

**70.** 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. Costs of Act.

A.D. 1909.

The SCHEDULE referred to in the foregoing Act.

---

Stamp.

Ten  
Shillings.

AGREEMENT made this twenty-first day of July one thousand nine hundred and nine between GEORGE DODDS PERKS of Egypt House 36 New Broad Street in the city of London solicitor for and on behalf of the promoters of the Kilkenny Castlecomer and Athy Railway Bill 1909 (hereinafter referred to as "the promoters") of the one part and RICHARD HENRY PRIOR-WANDESFORDE of Castlecomer House Castlecomer in the county of Kilkenny D.L. of the other part.

IN consideration of the withdrawal of the petition of the said Richard Henry Prior-Wandesforde and others in the House of Lords against the said Bill it is hereby agreed as follows:—

(1) The promoters and the Company to be incorporated by the intended Act shall not seek any extension of the times prescribed by the intended Act for the compulsory taking of lands or for the construction of the railway or otherwise and the powers conferred by the intended Act shall absolutely cease at the expiration of the respective times mentioned in the intended Act.

(2) The Company and the promoters shall not nor shall any of them oppose either directly or indirectly before the county council of the county of Kilkenny or the Privy Council in Ireland or otherwise any application now pending or hereafter made by the said Richard Henry Prior-Wandesforde under the Tramways (Ireland) Acts or otherwise for powers to acquire lands for the purpose of and to construct the light railway known as "The Castlecomer District Railway" between Cloneen County Kilkenny and the Great Southern and Western Railway at Clintstown County Kilkenny and more fully described in the maps plans and references deposited in connection therewith.

(3) The said Richard Henry Prior-Wandesforde shall be at liberty to proceed forthwith before the county council of the county of Kilkenny and the Privy Council in Ireland for the authorisation of the said Castlecomer District Railway but he shall not proceed with the construction of the said Castlecomer District Railway for a period of two years after the passing of the Kilkenny Castlecomer and Athy Railway Act and shall not proceed at all with the construction thereof if at or before the expiration of two years from the passing of that Act the whole of the necessary capital for the construction and equipment of



[9 EDW. 7.]

*Kilkenny Castlecomer and Athy*  
*Railway Act, 1909.*

[Ch. clviii.]

the railway thereby authorised has been bonâ fide subscribed for and two hundred thousand pounds actually paid up in cash. A.D. 1909.

(4) This agreement is subject to such alterations as Parliament may see fit to make therein but if any material alteration is made therein it shall be competent to either of the parties hereto to withdraw therefrom.

In witness whereof the said parties hereto have set their hands and seals the day and year first herein written.

Signed sealed and delivered }  
by the said George Dodds } GEO. D. PERKS.  
Perks in the presence of }

L.S.

WALTER JAMES

Clerk to G. D. Perks solicitor  
36 New Broad Street E.C.

Signed sealed and delivered }  
by the said Richard Henry } RICHARD HENRY  
Prior-Wandesforde in the } PRIOR-WANDESFORDE.  
presence of }

L.S.

JOHN LANIGAN

Solicitor  
Kilkenny.

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