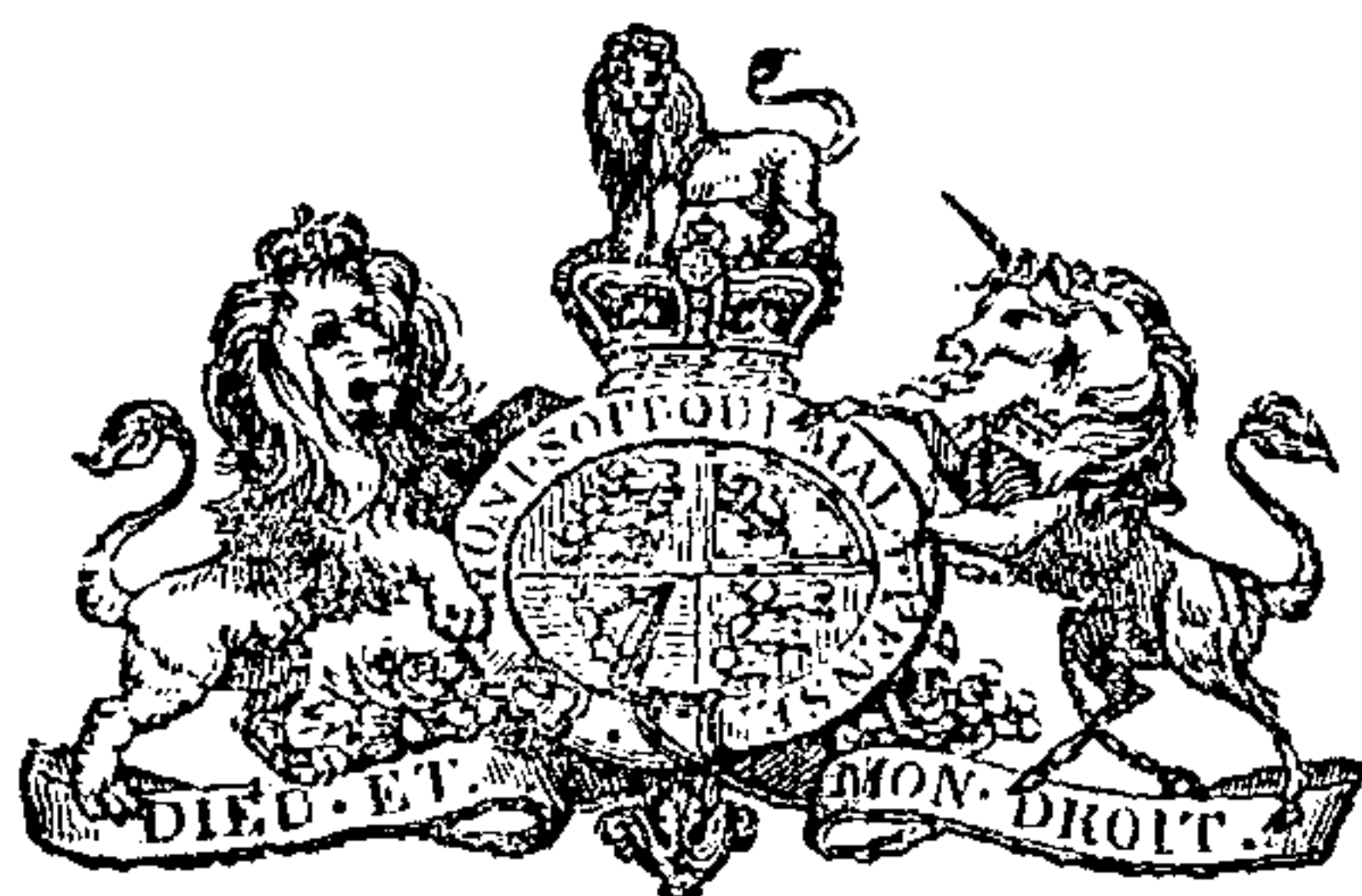


**CHAPTER xxvii.**

An Act to authorise the Cork and Macroom (Direct) Railway Company to extend their Railway into the City of Cork ;
to raise further Capital ; and for other purposes.

A.D. 1877.

[11th June 1877.]

WHEREAS the Cork and Macroom (Direct) Railway Company (in this Act called "the Company") were incorporated by "The Cork and Macroom (Direct) Railway Act, 1861," (in this Act called "the Act of 1861,") with power (section 17) to make a railway from the Cork and Bandon Railway, at or near the first mile post from Cork on that railway, to the town of Macroom in the county of Cork, and the Company were (sections 4 and 8) authorised to raise a capital of one hundred and twenty thousand pounds in shares, and to borrow forty thousand pounds on mortgage of their undertaking :

24 & 25 Vict.
c. ccvii.

And whereas by "The Cork and Macroom Direct Railway Act, 1868," the Company were authorised (section 4) to cancel certain unissued or forfeited shares, and in lieu thereof to create and issue new shares, with a preferential dividend attached thereto, not exceeding in the aggregate £50,800, and (section 10) to borrow on mortgage a further sum of ten thousand pounds :

31 & 32 Vict.
c. clxxx.

And whereas the Company have constructed their railway, and the same has been long since opened for public traffic :

And whereas it is expedient that the Company should be empowered to extend their railway into the city of Cork as by this Act authorised :

And whereas it is also expedient that the Company should be authorised to raise further moneys for the purposes of this Act and for the general purposes of their undertaking :

And whereas it is also expedient that such further powers be granted as are herein-after mentioned :

And whereas plans and sections showing the situation, line, and levels of the railway authorised by this Act, and also books of

A.D. 1877. reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, were duly deposited with the respective clerks of the peace for the county of Cork and county of the city of Cork, and are herein-after respectively referred to as the deposited plans, sections, and books of reference :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as "The Cork and Macroom Direct Railway Act, 1877."

Certain provisions of general Acts incorporated.

2. The clauses and provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters ; (that is to say,)

- The distribution of the capital of the Company into shares ;
- The transfer or transmission of shares ;
- The payment of subscriptions and the means of enforcing the payment of calls ;
- The forfeiture of shares for nonpayment of calls ;
- The remedies of creditors of the Company against the shareholders ;
- The borrowing of money by the Company on mortgage or bond ;
- The conversion of borrowed money into capital ;
- The consolidation of shares into stock ;
- The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested ;

and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation Act, 1845," "The Railways Acts (Ireland), 1851, 1860, and 1864," "The Railways Traverse Act," and Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be some-

thing in the subject or context repugnant to such construction; and for the purposes of this Act the expressions "the railway" or "the undertaking" mean respectively the railway and undertaking by this Act authorised. And sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, incorporated with this Act, shall be read and have effect as if throughout that Act the expression "clerks of the unions within which such parishes are included in Ireland" was substituted for the expression "postmasters of the post towns in or nearest to such parishes in Ireland," and the words "clerks of unions" were substituted for the word "postmasters."

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4. 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 herein-after described, with all proper and sufficient lines of rails, stations, sidings, roads, yards, buildings, approaches, works, and conveniences connected therewith respectively, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is—

Power to
make rail-
way.

A railway six furlongs, six chains, and eleven yards in length, commencing in the townland of Ballyphehane, in the parish of St. Nicholas, in the county of Cork, by a junction with the Cork and Macroom Direct Railway, near the junction of that line with the Cork and Bandon Railway, and terminating in the parish of St. Nicholas, in the county of the city of Cork, in a field abutting on the eastern side of the road called or known as Roche's Road.

5. Nothing contained in this Act shall authorise the Company to enter upon, take, or interfere with the public road called Windmill Road, and numbered 105 on the deposited plans and books of reference, in the parish of St. Nicholas, in the county of the city of Cork.

Certain road
not to be in-
terfered with.

6. The Company may apply for the purposes of this Act any moneys which by any previous Act or Acts they are authorised to raise by shares or by borrowing, and which may not be required for the special purpose, if any, for which the same were authorised to be raised.

Power to
apply funds.

7. The Company may from time to time raise capital (in addition to any capital which by any previous Act or Acts they are authorised to raise) not exceeding twenty-one thousand pounds, making in the whole the share capital of the Company one hundred and forty-one thousand pounds.

Power to
Company to
raise addi-
tional capital.

8. The Company may raise all or any capital which they are by this Act authorised to raise by the creation and issue of ordinary or new preference shares or stock, or partly by ordinary and partly by

Mode of
raising
capital.

A.D. 1877. preference shares or stock in their general capital: Provided that any such preferential dividend as aforesaid shall not exceed the rate of six per centum per annum.

Shares not
to issue
until one
fifth paid up.

9. The Company shall not issue any share or stock created under this Act of less nominal value than ten pounds, nor shall any share vest in the person accepting the same unless and until a sum not being less than one fifth of the amount of the share or stock be paid in respect thereof.

Calls.

10. One fourth 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 fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt for
persons not
sui juris.

11. If any money is payable to a shareholder being an infant or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to
borrow on
mortgage.

12. The Company may, in respect of the additional capital of twenty-one thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole seven thousand pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also if the said capital is raised by shares that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Aggregate
amount of
borrowing
powers.

13. The aggregate sum which the Company may borrow under the provisions of the recited Acts and this Act in respect of their

aggregate share capital of one hundred and forty-one thousand pounds shall be fifty-seven thousand pounds. A.D. 1877.

14. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall during their continuance, and subject to the provisions of the Acts under which the same were respectively granted, have priority, as against the undertaking or the portion of the undertaking of the Company included therein or chargeable therewith, over any mortgages granted by virtue of this Act; but nothing in this section shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Existing mortgages to have priority.

15. The provisions of any previous Act or Acts as to the appointment of a receiver are hereby repealed, but without prejudice to any appointment made or proceedings taken before the passing of this Act.

Provisions of former Acts as to appointment of a receiver repealed.

16. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver of the tolls, income, and revenue included in their mortgages. 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 five thousand pounds.

Arrears may be enforced by appointment of a receiver.

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

Debenture stock.

18. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Application of moneys.

19. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed one acre.

Lands for extraordinary purposes.

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

Powers for compulsory purchases limited.

21. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, if they think fit,

Power to take ease-

A.D. 1877.

ments, &c.
by agree-
ment.

subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, 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.

Penalty
imposed
unless the
line is
opened
within the
time limited.

22. If the Company fail within the period limited by this Act to complete the railway, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost of the works, and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act, 1854; and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, in the bank specified in such warrant or order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening such line by unforeseen accident or circumstances beyond their control, provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Providing
for appli-
cation of
penalty in
compensation
to parties
injured.

23. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "Dublin Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in

A.D. 1877.

Ireland may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Chancery in Ireland thinks fit to order, on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

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

Period for
completion
of works.

25. The Company from time to time may demand and take in respect of the railway by this Act authorised, for all passengers, animals, and things conveyed thereon, and for carriages, waggons, and trucks respectively conveying the same, and for locomotive engines or other power, and for all services performed by the Company thereon, and for all other matters and purposes whatsoever with respect to the traffic thereon, a like amount of tolls, fares, rates, and charges as by the Act of 1861 the Company are authorised to demand and take in respect of the railway thereby authorised, and for the like traffic and services, and in like manner and with and subject to the like powers and provisions in all respects as if the railway by this Act authorised had been part of the Company's original line: Provided always, that the maximum charges to be taken by the Company upon or in respect of the railway by this Act authorised shall not exceed those limited by the Act of 1861 and this Act.

Tolls and
maximum
charges.

26. Immediately upon the opening of the railway by this Act authorised for the public conveyance of passengers, sections 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, and 51 of the Act of 1861 shall be repealed.

Repeal of
certain sec-
tions of the
Act of 1861.

A.D. 1877.

Interest not
to be paid
on calls
paid up.

27. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him, but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

28. 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.

For preserv-
ing rights of
the Corpora-
tion of Cork.

29. Nothing in this Act shall be construed to interfere with or in anywise affect any existing right of the Corporation to such tolls and dues as they are entitled to receive and have been accustomed to collect at the passing of this Act, but the same shall be enjoyed with as full and extensive means of collection and recovery as they were before the time of the passing of this Act; and all powers and privileges contained in "the Act of 1861" for ascertaining the same, as well as the penalties thereby imposed for obstructing the ascertaining thereof, and the remedies provided for enforcing such penalties, shall extend to this Act, anything to the contrary notwithstanding.

Railway not
exempt from
provisions of
present and
future gene-
ral Acts.

30. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this Act.

Expenses
of Act.

31. 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.