



CHAPTER ccxvii.

An Act for making a Railway from the Ilen Valley Railway, at Drimoleague, to the Town of Bantry, all in the County of Cork; and for other purposes. [8th August 1878.] A.D. 1878.

WHEREAS the Dunmanway and Skibbereen Railway Company were incorporated by the Dunmanway and Skibbereen Railway Act, 1872, (in this Act called "the Act of 1872,") with power to make and maintain a railway from the West Cork Railway at Dunmanway to the town of Skibbereen in the county of Cork, and the Company were authorised to raise a capital of eighty thousand pounds in shares (of which fifty-three thousand pounds were authorised to be issued as 5 per cent. baronial guarantee shares) and forty thousand pounds by mortgages: 35 & 36 Vict. c. cxlvii.

And whereas by the Ilen Valley Railway Act, 1874, (in this Act called "the Act of 1874,") among other things, the name of the said Company was changed into the Ilen Valley Railway Company (hereafter in this Act referred to as "the Company"), and the Act of 1872 was amended: 37 & 38 Vict. c. clxxii.

And whereas the said railway has been constructed and is now open to the public, and the same is now being worked by the West Cork Railway Company under an agreement dated the 28th of March 1876, made in pursuance of the powers for that purpose contained in the Act of 1874, for a term of 99 years:

And whereas it would be of advantage to the public if an extension of the said railway were now made from Drimoleague to Bantry, as herein-after described:

And whereas the Company are willing, with the assistance and contributions of the several persons who have already subscribed or shall hereafter subscribe to such undertaking, to make and maintain the said extension railway (hereafter referred to as "the extension railway"), and all necessary works connected therewith:

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And whereas it is expedient that the Company should be authorised to raise further capital for the purposes of the extension railway, that such capital should form a separate capital, and that the extension railway should be a separate undertaking :

And whereas the extension railway will be made through or near to the baronies and part of barony in the county of Cork respectively named and described in the schedule to this Act; and it is expedient that provision be made for a guarantee by those baronies and part of barony of dividend on a part of the share capital to be raised for construction of the extension railway in the manner herein-after mentioned, and that the amount (if any) paid by such baronies and part of barony under the said guarantee should be, until the same was repaid, charged upon the extension railway as in this Act provided :

And whereas the Bill for this Act has been submitted to and approved by the grand jury of the county of Cork by the presentment sessions for the several baronies of Bere, Bantry, and West Division of West Carberry, and by the boards of guardians of the several poor law unions in which the said baronies and part of barony are situate :

And whereas it is also expedient that such other powers and provisions as are herein-after contained should be conferred and made :

And whereas plans and sections showing the situation, line, and levels of the extension 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 clerk of the peace for the county of Cork, and are herein-after respectively referred to as the deposited plans, sections, and book 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 Ilen Valley Railway (Bantry Extension) Act, 1878.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

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

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- 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;

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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.

26 & 27 Vict. c. 118.
 8 & 9 Vict. c. 18.
 23 & 24 Vict. c. 106.
 8 & 9 Vict. c. 20.
 14 & 15 Vict. c. 70.
 23 & 24 Vict. c. 97.
 27 & 28 Vict. c. 71.
 14 & 15 Vict. c. 70.
 25 & 27 Vict. c. 118.

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 something in the subject or context repugnant to such construction; and for the purposes of this Act the expressions "the railway," "the extension railway," or "the undertaking," mean respectively the railway and undertaking by this Act authorised; the expression "original capital" means the capital authorised to be raised by the Act of 1872, as amended by the Act of 1874, for the purposes of the railway thereby authorised to be made; the expression "extension shares" means the shares by this Act authorised to be issued for the purposes of the extension railway and works; the expression "extension shareholders" means the holders of the extension shares; the expression "net receipts" means the portion (if any) of the total receipts or revenue from the extension railway remaining after defraying the management and working expenses thereof, and paying the interest upon all mortgages and debenture stock and rentcharges (if any); the word "owner" has in this Act the same definition and meaning as are assigned to the word "landowner" in and by the Improvement of Land Act, 1864;" and sections

Interpretation of terms.

27 & 28 Vict. c. 114.

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Power to make railway according to deposited plans.

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 with the railway, and may enter upon and take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose. The railway herein-before referred to and authorised by this Act is—

A railway (wholly situate in the county of Cork), eleven miles one furlong and nine chains in length, commencing in the townland of Dromdaleague, in the parish of Dromdaleague, by a junction with the Ilen Valley Railway, near the Drimoleague Station of that railway, and terminating in the townland of Carrignagat, in the parish of Kilmacomogue, in a field occupied by Patrick Cotter, at or near the town of Bantry.

Payment of purchase money to limited owners in shares in certain cases.

5. The Company may, with the consent of any limited owner, pay any purchase money payable to such limited owner in respect of any lands purchased or taken under the authority of this Act, by the issue to such limited owner of as many shares in the capital of the Company as shall be equal in nominal amount to such purchase money, and such shares shall be deemed to be shares fully paid up. Such shares shall be held upon the like uses, trusts, and for the same purposes and in the same manner as the lands in respect of the purchase money for which such shares were issued stood settled. The Company shall with respect to such shares make an entry or memorial in their registry of shareholders of the uses, trusts, and purposes aforesaid; and subject to the uses, trusts, and purposes affecting such shares, the limited owner for the time being in respect thereof shall have all the other rights and powers of a shareholder in the Company: Provided always, that the Company shall not be bound to see to the application of any dividend received by such limited owner. The term "limited owner" in this section and in the following 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: Provided also, that no such payment by shares to a limited owner under this section shall be made until a certificate approving thereof shall have been granted by an inspecting engineer or engineers or other person or persons to be for such purpose nominated and appointed by the Commissioners of Public Works in Ireland, who are hereby authorised, on the application of any such owner, or of the Company, to make such appointment; and the costs relating to such nomination and appointment, inspection, and certificate shall be paid by the Company as the Commissioners shall direct.

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8 & 9 Vict.
c. 18.

6. It shall be lawful for the limited owners (as herein-before defined) of any land which the Company are authorised to take for the purposes of the railway or works which they are authorised to construct, to grant, transfer, or convey the same, or any portion thereof, to the Company free of cost; and such grant, transfer, or conveyance shall confer a good title to the lands described therein: Provided always, that no such grant, transfer, or conveyance by a limited owner under this section shall be made until a certificate approving thereof shall have been granted by an inspecting engineer or engineers or other person or persons to be for such purpose nominated and appointed by the Commissioners of Public Works in Ireland, who are hereby authorised, on the application of any such limited owner, or of the Company, to make such appointment; and the costs relating to such nomination and appointment, inspection, and certificate shall be paid by the Company as the Commissioners shall direct.

Limited owners of land may grant same free of cost to the Company, with consent of Commissioners of Public Works.

7. The Company may, for the purposes of making the extension railway and works, from time to time raise (in addition to the capital which they are now authorised to raise) any further capital not exceeding seventy thousand pounds.

Power to Company to raise additional capital.

8. The number of shares into which the capital for the extension railway shall be divided shall be seven thousand of ten pounds each, and such shares shall be issued as and consist of the following classes:

Number and description of shares.

A, or baronial guaranteed extension shares	£40,000
B, or ordinary extension shares	- - 30,000
	<u>£70,000</u>

and shall be so designated in the books of the Company and on the certificates issued for the same respectively.

9. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting

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

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Calls **10.** 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 four fifths 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.

Extension railway and capital to be separate. **12.** The extension railway shall, for financial purposes, form a separate undertaking, and the capital and new shares created under the powers of this Act shall constitute a separate capital, to be called "Extension Capital."

As to dividends on new shares. **13.** The net receipts from time to time of the extension railway applicable to dividend shall be applied in payment of dividend on the extension shares, in manner and subject to the provisions hereinafter contained, and the holders of those shares shall not in respect thereof be entitled to dividend out of any other receipts or profits of the Company.

Separate accounts to be kept. **14.** The Company shall keep separate and distinct accounts of all their receipts, credits, payments, and liabilities from, for, or on account of the extension railway.

As to right of voting in respect of new shares. **15.** The extension shares shall not confer on the holders thereof any right of voting or interference at any meeting of the Company on the general affairs of the Company, excepting on any matters directly affecting the said shareholders, for which purpose those shareholders shall have the same right of voting as the shareholders in the original capital; nor, on the other hand, shall it be lawful for the holders of shares in the original capital to interfere in the construction of the extension railway, or in the expenditure thereon, or in any other matters affecting that railway, excepting in so far as those matters immediately affect the general interests of the Company: Provided always, that the holder of any extension share shall not be entitled to vote in respect thereof at any meeting of the Company on any matter not relating to the construction of the extension railway unless and until fifty per centum shall have been paid up on account of the respective share.

Extension shareholders to elect two directors of Company. **16.** In addition to the directors authorised to be elected by the Act of 1872, as amended by the Act of 1874, there shall, as representing the extension shareholders, be two additional directors under

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this Act, who shall continue in office until the first ordinary meeting of the Company, to be held in the year 1880, and such first additional directors shall be John Warren Payne and John Edward Barrett, and the extension shareholders present personally or by proxy, and holding extension shares, shall from time to time, as often as vacancies occur by effluxion of time, at the meetings when directors in the room of retiring directors are chosen, elect two other directors, whose respective qualification shall be the possession in his own right of twenty shares in the extension capital, and such directors shall continue in office for one year, and any outgoing director, elected as aforesaid, may at the expiration of the said one year be re-elected in the like manner; and any occasional vacancy among such two directors may, subject to the provisions of this Act, be filled up in the manner appointed in the Companies Clauses Consolidation Act, 1845, for the supply of occasional vacancies in the office of directors: Provided always, that nothing herein contained shall in any manner affect the right of electing directors under the provisions contained in the Act of 1872, as amended by the Act of 1874; and the present directors of the Company, as well as those who may be from time to time appointed by the shareholders in the original capital, and the said two directors elected under the provisions of this Act, shall, subject to the provisions of this Act, enjoy the like powers as if they had been elected by the whole of the shareholders of the Company.

8 & 9 Vict.
c. 16.

17. The holders of shares in the original capital shall not be entitled in right of such holdings to vote at any meeting of the Company in regard to the election of directors by the extension shareholders; and in like manner the holders of extension shares shall not be entitled in right of such holdings to vote at any meeting of the Company in regard to the election of directors by the shareholders in the original capital.

The two classes of shareholders to vote separately in election of their respective directors.

18. No director appointed by the shareholders in the original capital shall be entitled to vote at the election of any director to fill up any vacancy which may occur among the directors appointed by the extension shareholders, and no such last-mentioned director shall be entitled to vote at the election of any director to fill up any vacancy which may occur among the directors appointed by the shareholders in the original capital.

As to vacancies among directors.

19. The Company may from time to time borrow on mortgage any sums not exceeding in the whole thirty-five thousand pounds; that is to say, when and so soon as the sum of twenty thousand pounds, part of the capital of seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, the Com-

Power to borrow money on mortgage.

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A.D. 1878. — pany may borrow on mortgage any sum not exceeding ten thousand pounds; and when the further sum of twenty thousand pounds, part of the said capital of seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, the Company may borrow on mortgage any further sum not exceeding ten thousand pounds; and when the further sum of twenty thousand pounds, part of the said capital of seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, the Company may borrow on mortgage any further sum not exceeding ten thousand pounds; and when the further sum of ten thousand pounds, being the remainder of the said capital of seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, the Company may borrow on mortgage any further sum not exceeding five thousand pounds; but no part of any of the said four sums of ten thousand pounds, ten thousand pounds, ten thousand pounds, and five thousand pounds hereby authorised to be borrowed shall be borrowed until the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of that portion of the capital in respect of which the borrowing power is proposed to be exercised has been issued and accepted, and one half thereof paid up, and that not less than one-fifth part of the amount of each separate share has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

8 & 9 Vict.
c. 16.

Mortgages
granted by
the Company
not to affect
the present
undertaking.

20. The mortgages to be from time to time granted by the Company under this Act shall only comprise and affect, and the mortgages and bonds from time to time granted or to be granted by the Company under any Act other than this Act shall not comprise or affect, the undertaking by this Act authorised and the revenue accruing under this Act.

As to ap-
pointment of
a receiver.

21. The mortgagees of the Company under this Act 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

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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 three thousand pounds. A.D. 1878.
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22. 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.
26 & 27 Vict.
c. 118.

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

24. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, shall not exceed two acres. Lands for extraordinary purposes.
8 & 9 Vict.
c. 20.

25. 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. Period of compulsory purchase of lands.

26. 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 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,) As to level crossings.
8 & 9 Vict.
c. 20.
26 & 27 Vict.
c. 92.

No. on deposited Plan.	Townland.	Description of Road.
17	Dromdaleague - -	Public.
30	Aghaville - -	Public.
12	Cullomane, West - -	Public.

27. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands may, if they think fit, 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 ease- Power to take easements, &c. by agreement.
8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.

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

28. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, c. 20, a sum of three thousand five hundred pounds, being equal to five per cent. upon the amount of the estimate in respect of the railway, has been deposited with the Chancery Division of the High Court of Justice in Ireland in respect of the application to Parliament for this Act (which sum is referred to in this Act as "the deposit fund"): 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 the completion of the railway open the same for the public conveyance of passengers: 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 railway or portion of 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 railway so opened bears to the entire length of the railway, the Chancery Division shall, on the application of the depositors, or the majority of them, 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.

Application
of deposit.

29. 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 com-

pensating 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 proportions as to the Chancery Division of the High Court of Justice in Ireland 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 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 Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Chancery Division, 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: Provided that until the deposit fund has been repaid to the depositors, or has become otherwise applicable as herein-before 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.

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30. If the extension railway 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 extension railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Period for completion of railway.

31. The extension railway by this Act authorised shall for the purposes of tolls and charges, working, traffic, and other agreements, and for all other purposes except as by this Act otherwise expressly provided, be deemed to be part of the original undertaking of the Company authorised by the Act of 1872; but nothing in this Act contained shall prejudice or affect the before-mentioned working agreement of the 28th March 1876, or the rights or powers of the

Tolls, &c. on railway.

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Baronies and part of barony to contribute.

32. If and whenever in any half year after the opening of the extension railway for the public conveyance of passengers, and during the period of thirty-five years next after such opening, the net receipts (if any) from the extension railway, to be ascertained in manner by this Act provided, shall not amount to a sum equal to a dividend at the rate of five pounds per centum per annum upon a total of forty thousand pounds, the amount of the A or baronial guaranteed extension shares (herein-after referred to as "the A shares"), part of the capital of seventy thousand pounds herein-before authorised, then the sum required for the payment of the full amount of such dividend, or of any deficiency therein, in the respective events of a total failure or partial insufficiency of such net receipts as aforesaid, shall become payable and be paid half-yearly by the baronies and part of barony named and described respectively in the schedule to this Act (herein-after referred to as "the baronies"), rateably and in the proportions herein-after provided for, and such sum shall be applied to such payment and not otherwise : Provided always, that the said net receipts (if any) shall from time to time during the said period be applied to the payment of the said dividend in priority to any other purpose whatsoever.

Moneys paid by baronies to be a charge on the railway and income thereof.

33. If any moneys shall have been paid or contributed by the baronies under the provisions of this Act, all such moneys, together with the costs and expenses of levying the same, shall be, as and from the dates of the respective payments of the same, charged upon the extension railway and the net receipts from the same remaining after payment of the dividend on the A shares as aforesaid, until repaid, and shall be so charged next after the mortgages, debenture stock, and rentcharges, if any, and in priority to any other debt due by the Company ; and the said moneys so charged shall be paid to the treasurer for the time being of the said county, in manner herein-after provided.

For ascertaining amount to be paid by each barony, &c.

34. For the purpose of ascertaining the amount of the net receipts (if any) from the extension railway in each half year applicable to the payment of dividend on the A shares as aforesaid, and the proportions in which the baronies shall pay the said half-

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yearly sums (if any) during such time as the same shall be payable, and for other the purposes herein-after mentioned, the Board of Trade, upon the request of the Company, may and shall from time to time, by warrant under the hand of their secretary for the time being, appoint as arbitrators the county surveyor for the time being of the west riding of the county of Cork, and two other persons to be selected by the Board of Trade, and may supply the place of any arbitrator dying, resigning, or refusing or failing to act, or becoming incapacitated; and such arbitrators shall from time to time by their certificate in writing ascertain and determine the amount of the net receipts (if any) in each half year applicable to the payment of the said dividend on the A shares, as herein-before provided, and also assess and determine the half-yearly sum (if any) to be paid by the baronies, and the relative proportions in which such half-yearly sum shall be paid and made up by the baronies, such arbitrators taking into consideration the benefit or supposed benefit, immediate or prospective, which the baronies may respectively in their opinion have derived or be likely to derive from the formation and opening of the extension railway; and every certificate of such arbitrators under their hands, or (in case all the said arbitrators shall be unable to agree) under the hands of any two of them, shall be in all respects final and binding on the baronies; and from and immediately after each delivery of any certificate the baronies, and all lands, hereditaments, or premises comprised therein respectively, shall be and are hereby charged and made chargeable with the payment of such half-yearly sum, in the several proportions specified and set forth in such certificate; and every such certificate and a duplicate thereof, if required, shall be delivered to the Company, upon the request and upon payment by them to such arbitrators of their costs and expenses, and such remuneration (if any) for their trouble in regard thereto as the Board of Trade shall determine.

35. For the several purposes mentioned in the last preceding section, the Company shall from time to time, on or before the first day of May and the first day of November in every year, make out and render to the arbitrators a full, true, and distinct account of all the receipts of every nature and kind for the then preceding half year ending the thirty-first day of December and thirtieth day of June in each year, arising in any manner from the extension railway, and of the expenditure in connexion therewith, which account the said arbitrators shall examine with the documents and vouchers evidencing the same, and with all books, papers, and accounts in the custody and control of the Company relating to the

Accounts of
receipts to
be rendered.

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business of the Company, and all such accounts, documents, vouchers, books, and papers shall be kept by the Company, who shall upon the request of the said arbitrators from time to time produce the same to such arbitrators for examination, and such arbitrators may (if they think fit) employ one actuary or accountant to assist them in such examination from time to time, at the cost and expense of the Company; and the Company shall, so long as the contributions by the baronies continue, keep proper and correct books of account to show the receipts from the extension railway, and the expenditure in connexion therewith, and the net receipts (if any) made applicable by this Act to the payment of dividend on the A shares as aforesaid, to which books of account the said arbitrators shall have at all reasonable times access and from which they may at all times take extracts; and the Company shall during the said period send to the said arbitrators duplicate copies of the accounts which they are bound by any Act of Parliament now in force or that may hereafter be in force to transmit to the clerk of the peace or to the Board of Trade, and the said arbitrators shall adjust and balance the said accounts, and in all matters whatsoever their decision shall be final and conclusive.

Sums mentioned in certificates to be presented by grand jury and paid by treasurer.

36. The Company shall deliver such certificate from time to time, or a duplicate thereof, to the secretary of the grand jury of the county of Cork, who shall lay such certificate or duplicate thereof before the grand jury of that county at the assizes next after he shall have received the same, and it shall be lawful for such grand jury, and they are hereby required, from time to time, and without application to presentment sessions, to present the sum mentioned in every such certificate to be raised and levied off the baronies, and the same shall be assessed, raised, and levied in the like manner as any presentment made under the authority of an Act passed in the 6th and 7th years of the reign of His late Majesty King William IV., cap. 116, and the Acts amending the same, and together with and as part of the presentments made at such assizes; and the treasurer of the said county shall, out of the first moneys collected and remaining in his hands after repayment of Government advances, gaol expenses, and salaries of public officers payable by him, pay the sum so presented by the grand jury to the secretary of the Company, or in such other manner as the Company shall direct; and if the said grand jury shall fail to present the sum specified in the certificate so laid before them, or any part of such sum, the treasurer of the said county shall and he is hereby required to insert such sum, or such part thereof as may be omitted, in his warrant for raising the moneys presented at the same assizes, as if

such sum had been duly presented by the grand jury to be raised in manner herein-before mentioned, and the amount so inserted shall be apportioned, raised, and levied on and off the baronies as if the same had been duly presented, and the said treasurer shall pay over the amount so raised and levied to the Company, or in such other manner as the Company shall direct.

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37. If and whenever in any half year there shall remain any surplus after paying out of the net receipts a dividend at the rate of five per cent. per annum upon the A shares as by this Act provided, and any money shall have been contributed by the baronies under this Act, such surplus shall be paid over to the treasurer of the said county until all moneys paid to the Company from the baronies, together with the costs and expenses of levying the same, shall have been repaid to such treasurer, and shall be applied by him in reduction of the grand jury cess next thereafter payable by the baronies respectively; and if and whenever in any half year there shall remain any additional surplus after the payment in full of the said dividend on the A shares, and after the said moneys, costs, and expenses have been repaid to the said treasurer, such surplus shall go to pay a dividend not exceeding five per cent. per annum on the B or ordinary extension shares; and if and whenever such surplus shall be more than sufficient to pay such last-mentioned dividend, the balance shall be applied in paying further dividend upon the A shares, and at the same time and *pari passu* upon the B or ordinary extension shares.

Repayment of money contributed by the baronies.

Application of surplus.

38. When any moneys shall be paid to the treasurer of the said county pursuant to this Act, the receipt of such treasurer for the time being shall be a sufficient discharge to the Company, who shall not be bound to see that such moneys are properly applied in reduction of the grand jury cess payable by the baronies, or be in any way responsible for the application, misapplication, or non-application thereof.

Receipt of treasurer of county to be a sufficient discharge.

39. When and so soon as all moneys contributed from time to time by the baronies, together with the costs and expenses of levying the same, have been repaid to the treasurer of the said county, a certificate that such moneys have been so repaid shall be made in duplicate, and shall be signed by the secretary of the said grand jury, and one copy of such certificate shall be retained by the secretary at the office of the said grand jury, and one copy shall be deposited with and retained by the secretary or other officer of the Company, and the production of either copy shall be conclusive evidence that all moneys contributed by the baronies, together with the said costs and expenses, pursuant to this Act, up to the date of such certificate, have been repaid by the Company.

Evidence of repayment by Company.

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As to actions
by treasurer
of county.

40. In all cases where any moneys are under the provisions of this Act made payable by the Company to the treasurer for the time being of the said county, such treasurer, in default of payment thereof by the Company, may recover the same with full costs of suit by action in any court of competent jurisdiction; and in any such action such treasurer for the time being shall be the nominal plaintiff, and as such entitled to sue on behalf of the county; and no such action shall abate or be discontinued by reason of the death, removal, or resignation of any such treasurer; and all moneys received or recovered by such treasurer from the Company under the provisions of this Act shall be applied by him in reduction of the grand jury cess next thereafter payable by the baronies respectively.

Provision in
case of deter-
mination of
office of
treasurer.

41. If and when a banking company shall, under the provisions of the Act 30 and 31 Victoria, chapter forty-six, become treasurer of the said county, the provisions of this Act relating to the treasurer of the said county shall be applicable to the secretary of the said grand jury.

Tenants to
deduct half
the rate from
the rent.

42. When the person occupying any lands, hereditaments, or premises in any of the baronies shall be liable to pay a rent in respect of the same, he may deduct from such rent, for each pound of the rent which he shall be liable so to pay, one half of the sum which he shall have paid as rate or cess under the provisions hereinbefore contained, in respect of each pound of the net annual value, whether such rent shall be greater or less than such net annual value, and so in proportion for any less sum than a pound, not exceeding the aforesaid poundage rate or cess payable by him: Provided always, that no deduction be made from tithe rentcharge, or other composition in lieu of tithes, for or on account of any such rate, cess, or payment.

Sub-lessors
to make pro-
portionate
reductions
from superior
landlord's
rent.

43. When any person to whom rent shall be payable in respect of any rateable lands, hereditaments, or premises shall also pay a rent in respect of the same, he shall be entitled to deduct from the rent so paid by him a sum bearing such a proportion to the amount of rate or cess as aforesaid deducted from the rent payable to him as the rent paid by him bears to the rent payable to him, not exceeding the half of the said poundage rate or cess payable by him: Provided always, that no lessee or other person paying any rate, cess, or contribution under this Act in respect of any lands, hereditaments, or premises held by him for lives renewable for ever, or for the residue of any term of years which when originally created shall not have been less than nine hundred years,

shall deduct any portion of such rate, cess, or contribution from the rent payable by him in respect of such lands, hereditaments, or premises. A.D. 1878.

44. In all cases a receipt for the rates or cesses to be levied under the authority of this Act in respect of any lands, hereditaments, or premises shall be accepted by every person entitled to receive rent in respect of the same, in lieu of such a portion of rent as the person tendering such receipt is hereby entitled to deduct from such rent by reason of his payment of the rate or cess for which such receipt shall be given: Provided always, that no deduction on account of any payment of rate or cess under this Act shall be held to be a discharge of any portion of any gale or quarterly or other payment of rent due from the person entitled to make such deduction, so as to prejudice the right of any landlord to recover the possession of any lands, hereditaments, or premises, by ejectment for nonpayment of rent thereof, in any case where the remaining portion of such gale shall be unpaid; but it shall be lawful for such landlord to proceed for the recovery of such lands, hereditaments, or premises, by ejectment, as effectually as if the entire gale or quarterly or other payment of rent out of which such deduction is hereby allowed had remained wholly due and unpaid: Provided also, that no deduction shall be made from any rentcharge granted by way of jointure, or any other rentcharge or annuity granted, limited, or devised for a life or lives in being only, or for years determinable on a life or lives in being. Receipt for rates to be taken in discharge.

45. After the expiration of thirty-five years from the opening of the extension railway for the public conveyance of passengers, or when and as soon as the Company, by deed under their common seal (which, with the consent in writing of all the holders for the time being of the A shares, or such part thereof as shall have been issued and accepted, they are hereby empowered to execute), shall have released the baronies from all further liability (whichever shall first happen), the contributions by the baronies shall cease; and from and after the expiration of that period or the delivery of such deed, as the case may be, all the provisions of this Act contained in sections 32 to 45, both inclusive, shall for ever cease and determine, except as to the sums respectively which the baronies shall then be liable to pay, or which shall be then due to the baronies, in respect of which sums the said provisions shall, until the same respectively shall have been paid, remain in full force and effect; and when after the expiration of the same period or the delivery of such deed, as the case may be, the sum due to the Cessation of barony contributions.

[Ch. ccxvii.] *Ilen Valley Railway (Bantry Extension) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. — baronies shall have been paid, the other creditors of the Company shall in respect of their debts be entitled to and have the same priority as if the said provisions had not been contained in this Act: Provided that if any such holder as aforesaid for the time being of the A shares shall be a minor, idiot, or lunatic, the consent of his or her respective guardian or committee shall be sufficient for the purposes of this section.

Company to contribute to undertaking.

46. The Company may, in the names of such of their directors as they think fit, subscribe towards and become shareholders in the undertaking hereby authorised, to any extent not exceeding ten thousand pounds, and they may pay the said sum, or any part thereof, either out of surplus revenue, or out of any of the moneys by the Act of 1872, as amended by the Act of 1874, authorised to be raised, and which may not be required by the Company for any other purpose.

Saving rights of "baronial guaranteed shares" under Act of 1872 and this Act when consolidation of shares into stock takes place. 8 & 9 Vict. c. 16.

47. The exercise by the Company of the powers of converting or consolidating shares into stock conferred by the Companies Clauses Consolidation Act, 1845, shall not take away, prejudice, diminish, or alter any of the rights, privileges, powers, or authorities granted in respect of the "baronial guarantee shares" by the Act of 1872, as amended by the Act of 1874, and in respect of the "A or baronial guaranteed extension shares" by this Act; and after any such conversion or consolidation shall have taken place all the provisions of the Act of 1872, as amended by the Act of 1874, relating to the said baronial guarantee shares, and of this Act relating to the A or baronial guaranteed extension shares, shall be read and have effect as if throughout those provisions the word "stock" was substituted for the word "shares."

Interest not to be paid on calls paid up.

48. 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: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

8 & 9 Vict. c. 16.

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

49. 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.

50. Nothing in this Act contained shall be deemed or construed to exempt the Company or their railways from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during the present or any future session of Parliament, or from any future revision and 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 and the Act of 1872.

A.D. 1878.
Railways
not exempt
from pro-
visions of
present and
future
general Rail-
way Acts.

51. The 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 out of the first moneys coming to their hands under this Act.

Expenses of
Act.

A.D. 1878.

SCHEDULE referred to in this Act.

The barony of Bere ;

The barony of Bantry ; and

So much of the barony of the West Division of West Carberry as is comprised in the parishes and townlands following ; (that is to say,)

The parishes of Kilcoe, Kilcrohane, Kilmoe, and Skull ; the townlands of Aghaville, Ballaghadow North, Ballaghadow South, Bawnboy, Caheragh, Cooradowny, Cullomane East, Cullomane West, Derreenavarrihy, Deereenacno, Derryishal, Dromore, Dromourneen, Glanatnaw, Glandarta, Gortdromagh, Gortnascreeny, Inchingerig, Inchybegga, Kealanine, Killeenleagh, Knockgorm, Lognagappul, Maunvough, Mullaghmore, and Trawlebane, in the parish of Caheragh ; the townlands of Ardogeena, Ballycommene, Brahalish, Carrigboy, Clashadoo, Cloonee, Coolcoulaghta, Coomkeen, Crottees, Dromataniheen, Dromreagh, Gearhameen, Kealties, Killoveenoge, Murreagh, Rossmore, Rusheenanska, Tullig, and Islands in Dunmanus Bay (viz., Mannions Large, Mannions Small, and nine others), in the parish of Durrus ; and the townlands of Aghagoheen, Ardrah, Baurgorm, Caherogullane, Cloonee, Derreen-greenagh, Derryvahalla, Glanlough, Gortacloona, Keilnascarta, Letterlickey East, Letterlickey Middle, Letterlickey West, Maulinward, Parkana, and Scartbaun, in the parish of Kilmocomoge.