

[43 & 44 VICT.]

*Clara and Banagher Railway
Act, 1880.*

[Ch. ccx.]



CHAPTER ccx.

An Act to revive and extend the powers of the Midland Counties and Shannon Junction Railway Company for the Purchase of Lands and Execution of Works; to facilitate the Completion and beneficial Working of their Undertaking; to change the Name of the Company; and for other purposes.

A.D. 1880.

[7th September 1880.]

WHEREAS by the Midland Counties and Shannon Junction Railway Act, 1861, (herein-after called the Act of 1861,) the Midland Counties and Shannon Junction Railway Company (herein-after referred to as the Company) were incorporated for making the railways described in the said Act, and were, among other things, authorised to enter into contracts and agreements with the Great Southern and Western Railway Company (herein-after called "the Great Southern Company") for and with reference to the use, working, and management by that Company of portion of the undertaking of the Company; and by the Act of 1861 the Company, and all persons and corporations authorised by them, were empowered to use, pass over, and work for the purposes of traffic of all kinds portions of the railway of the Great Southern Company lying between the junction therewith of the railway of the Company and the Clara Station of the Great Southern Company, including the use of that station, and of the sidings, watering places, signals, signal posts, and other machinery, booking and other offices, buildings, approaches, works, and conveniences belonging to and connected with the said portion of railway or the said station, on payment of the sums and subject to the conditions in the said Act mentioned; and by the Act of 1861 the Great Southern Company were required to afford all such facilities for traffic of the Company as are in the said Act mentioned:

24 & 25 Vict.
c. cclvi.

And whereas by the Midland Counties and Shannon Junction Railway Act, 1866, (herein-after called "the Act of 1866,") the

29 & 30 Vict.
c. clxxxii.

[Local.-210.]

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[Ch. ccx.] *Clara and Banagher Railway* [43 & 44 Vict.]
Act, 1880.

A.D. 1880. powers or some of them granted to the Company by the Act of 1861
— for the compulsory purchase of land and completion of works were
revived and extended as in that Act mentioned, and those powers
were further extended by warrant of the Board of Trade pursuant to
31 & 32 Vict. the Railways (Extension of Time) Act, 1868, and were revived and
c. 18. further extended by the Midland Counties and Shannon Junction
35 & 36 Vict. Railway Act, 1872 (herein-after called "the Act of 1872") :
c. clxxxviii.

And whereas the Company from time to time proceeded in the execution of parts of their undertaking, and have constructed the greater portion thereof, but owing to various causes the same has not hitherto been completed, and meanwhile the powers of the Company for the compulsory purchase of land and for the completion of works have again expired, and it is expedient that the same should be revived to the extent and in the manner in this Act mentioned :

And whereas plans and sections of the portions of railway the powers for the construction of which are by this Act revived, showing the lines and levels thereof, and the lands which may be taken for the purposes of this Act, and also books of reference to the plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands, have been deposited with the clerk of the peace for King's County, and such plans and sections are identical with the plans and sections deposited in respect of the Act of 1861 :

And whereas by the Act of 1872 the preference shares authorised by the Act of 1866 were divided into Classes A and B, and of the Class A shares only £5,000 have been issued, and of the Class B shares none have yet been issued, and it is expedient to sanction in relation to such unissued capital of the Company the further provisions herein-after contained :

And whereas the consent in writing of the proprietors of the said £5,000 Class A shares has been obtained to such provisions :

And whereas the objects and purposes of the Company as now existing would be more correctly described and defined if the name of the Company were altered in manner herein-after mentioned :

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

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

Short title. 1. This Act may be cited for all purposes as the Clara and Banagher Railway Act, 1880.

2. The Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Acts (Ireland), 1851, 1860, and 1864, the Railways Traverse Act, Part II. (relating to extension of time) and Part III. (relating to working agreements) of the Railways Clauses Act, 1863, Part III. (relating to debenture stock) and Part IV. (relating to change of name) of the Companies Clauses Act, 1863, are, except where the same are varied by or inconsistent with the provisions of this Act, incorporated with and form part of this Act.

A.D. 1880.
Incorporation
of general
Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict.
c. 106.
14 & 15 Vict. c. 70.
23 & 24 Vict. c. 97.
27 & 28 Vict. c. 71.
31 & 32 Vict. c. 70.
26 & 27 Vict. c. 92.
26 & 27 Vict.
c. 118.

3. In this Act the several words and expressions to which meanings are assigned by the Acts partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and the expression "the railway" or "the undertaking" means the railway and undertaking of the Company; the expression "the Company" means the Company incorporated by the Act of 1861 under their original name of the Midland Counties and Shannon Junction Railway Company, or under their name conferred by this Act of the Clara and Banagher Railway Company, as the case may be or require; the expression "the recited Acts" means the Act of 1861, the Act of 1866, and the Act of 1872.

Interpreta-
tion of terms.

4. From and after the passing of this Act the name of the Company shall be "The Clara and Banagher Railway Company"; and, subject to the provisions of this Act, the Act of 1861, relating to the Company, and all other Acts in which the Company is mentioned or referred to by their former name of the Midland Counties and Shannon Junction Railway Company, shall be read and construed as if the Company had therein been mentioned or referred to by their future name of the Clara and Banagher Railway Company, and shall, notwithstanding such change of name, continue to apply to the Company in like manner in all respects as if the name of the Company had not been changed and this Act had not been passed.

Change of
name.

5. The powers of the Company for the compulsory purchase or taking of lands granted by the Acts of 1861, 1866, and 1872 are, notwithstanding anything in the recited Acts contained to the contrary, hereby revived and extended, and shall continue in force for the period of two years from the passing of this Act with respect to so much of the Railway No. 1 described in section 23 of the Act of 1861 as lies between its point of junction with the Tullamore and Athlone Extension of the Great Southern and Western Railway, in the parish of Kilbride, and the point where it meets the public road from Banagher to Ballinasloe, as shown on the plans deposited for the Act of 1861 and this Act.

Extension of
time for
purchase of
lands.

A.D. 1880.

Extension of
time for
completion of
works.

6. The time limited by the recited Acts for the completion of the works by the Act of 1861 authorised to be constructed is, notwithstanding anything in the recited Acts contained to the contrary, hereby revived and extended, and shall continue in force for three years from the passing of this Act, so far as relates to the said portion of Railway No. 1 herein-before described.

Cesser of
powers if
not then
exercised.

7. Provided always, that if the said portion of the undertaking of the Company shall not be completed within the extended period by this Act limited, then, on the expiration of that extended period, the powers by this Act granted for making and completing such portion as aforesaid, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall be completed.

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

8. 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, chapter 20, a sum of two thousand one hundred and sixty-six pounds consolidated three pounds per centum annuities, being equal to five per centum upon the amount of the estimate in respect of the portion of railway the powers for the construction of which are by this Act revived, 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 said 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 survivor or survivors 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: 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 portion of railway the powers for the construction of which are by this Act revived, 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. A.D. 1880.

9. If the Company do not, previously to the expiration of the period limited for the completion of the said portion of 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 may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said portion of railway, or of any part 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 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 said deposit fund shall have 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. Application
of deposit.

10. The Company may apply for the purposes of this Act such of their existing funds and of any moneys they are still authorised to Power to
apply funds.

A.D. 1880.

raise as may not be required for the purposes for which they were so authorised to be raised.

Additional provision as to issue of debenture stock.

11. Notwithstanding anything contained in the recited Acts or in the Companies Clauses Act, 1863, it shall be lawful for the Company, if they think fit, by resolution in writing, to declare that the unissued preference share capital of the Company, (twenty thousand pounds Class "A," and ten thousand pounds, part of the twenty-five thousand pounds unissued preference share capital, Class "B,") which the Company are authorised under the recited Acts to create and issue, shall not be created and issued, or shall only be created and issued partially, as the case may be, and in lieu of and in substitution for such preference shares (Class A and Class B), and to an extent not exceeding the amount of the preference shares which the Company so debar themselves from issuing (and in any event not exceeding the amount of thirty thousand pounds), it shall be lawful for the Company to create and issue a corresponding amount of mortgages or debenture stock in addition to any mortgages or debenture stock heretofore created and issued or authorised to be created and issued by them, and to the extent of any additional mortgages or debenture stock so created and issued by the Company under the powers of this Act, in lieu of and in substitution for preference shares (Class A and Class B), and to a corresponding amount in each case the powers of the Company as to the issue of preference shares (Class A and Class B) shall be and be deemed to be ipso facto repealed.

Power to create debenture stock.

12. 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 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.

Extending section 6 of 35 & 36 Vict. c. clxxxviii. to this Act.

13. Section 6 of the Act of 1872 shall extend to and form part of this Act as fully and effectually as if that section had been expressly repeated and re-enacted this Act.

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

14. The Company shall not, out of any money by the Act of 1861 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.

15. The Company shall not 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.

A.D. 1880.
Interest not
to be paid on
calls paid up.

8 & 9 Vict.
c. 16.

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

16. Nothing herein contained shall be deemed or construed to exempt the railway from the provisions of any general Act relating to railways, or the better or 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.

17. 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.

Expenses of
Act.