



CHAPTER ccxvi.

An Act to authorise the construction of a Railway in the County of Cork to be called the Clonakilty Extension Railway and for other purposes. [22nd August 1881.] A.D. 1881.

WHEREAS the making and maintaining of a railway in the west riding of the county of Cork herein-after described would be of public and local advantage;

And whereas the persons herein-after named with others desire to be incorporated into a Company for making the said railway;

And whereas plans and sections showing the lines and levels of the railway together with books of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands and property required or which may be taken for the purposes or under the powers of this Act have been deposited for public inspection in the office of the clerk of the peace for the county of Cork in the month of November 1880 and those plans sections and books of reference are in this Act respectively referred to as the deposited plans sections and books of reference;

And whereas the railway will be made through or near to certain baronies in the county of Cork which or some parts of which will be greatly benefited by the construction thereof and it is expedient that provision be made for a guarantee by the barony and parts of baronies specified in the schedule to this Act of dividend on so much of the share capital as is herein-after mentioned to be raised under the authority of this Act and applied towards the construction of the railway;

And whereas it is expedient that the Company and the Cork and Bandon Railway Company should be empowered to make and carry into effect agreements as herein-after provided.

And whereas a copy of the Bill for this Act as deposited in the office of the Clerk of the Parliaments and in the Private Bill Office

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A.D. 1881. of the House of Commons was submitted to the grand jury of the county of Cork and to the presentment sessions for the baronies named in this Act and to the boards of guardians of the several unions affected thereby and was approved by those respective bodies ;

And whereas the objects of this Act 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 as the Clonakilty Extension Railway Act 1881.

Incorporation of Acts. 2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 ; the Companies Clauses Act 1869 ; the Lands Clauses Consolidation Act 1845, the Lands Clauses Consolidation Acts Amendment Act 1860 ; the Railways Clauses Consolidation Act 1845, and Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 ; the Railways Act (Ireland) 1851 ; the Railways Act (Ireland) 1860 ; the Railways Act (Ireland) 1864 ; and the Railways Traverse Act, 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 something in the subject or context repugnant to such construction the expression "the Company" means the Company incorporated by this Act the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this Act authorised and the expression "the rateable district" means the district specified in the schedule to this Act.

Company incorporated. 4. Adam Perry, John Warren Payne, and William Thorley Stewart, and all other persons and corporations 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 Clonakilty Extension 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. A.D. 1881.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railway herein-after 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 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 railway.

1. A railway wholly situate in the west riding of the county of Cork (8 miles 6 furlongs and 5 chains in length) commencing by a junction with the West Cork section of the Cork and Bandon Railway at the western face of the bridge which carries the public road from Clonakilty to Killountain over the West Cork section of the Cork and Bandon Railway in the townland of Gaggan and parish of Ballymodan and terminating at a point 250 feet measured in a north-easterly direction from the northern side of the Military Barracks at Clonakilty in the townland of Scartagh and parish of Kilgarriffe.

6. With reference to this Act all the provisions of sections seven eight and nine of the Railways Clauses Consolidation Act 1845 shall be read and construed as if the expression "clerks of the unions within which such parishes are included in Ireland" or the words "clerks of the unions" as the case may be had been used and inserted in such sections in lieu of the expression "the postmasters of the post towns in or nearest such parishes in Ireland" or in lieu of the word "postmasters" as the case may be. Deposit of plans with clerks of unions.

7. The capital of the Company shall be forty thousand pounds divided into four thousand shares of ten pounds each and such shares shall consist and be issued of the following classes:— Capital.

- (a) Baronial guaranteed shares fifteen thousand pounds
- (b) Ordinary shares twenty-five thousand pounds.

8. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation 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. Shares not to be issued until one fifth paid.

9. 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 Calls.

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A.D. 1881. — 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 in case of persons not sui juris.

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

Rateable district to contribute for thirty-five years after opening.

11. For and during the period of thirty-five years after the opening of the railway for public traffic the net receipts (if any) arising from the same in each half year after deducting from the gross receipts the management and working expenses thereof and the moneys for the time being payable in respect of the interest on any debt or demand secured or created by mortgage or debenture stock of the Company shall be applied to the payment of a dividend at the rate of five pounds per cent. per annum on so much of the said sum of fifteen thousand pounds baronial guaranteed shares as shall have been from time to time issued and paid up and to no other purpose whatsoever and in the event of a total failure or partial insufficiency in any half year of such net receipts to pay such dividend as aforesaid then the sum required to pay such dividend or to make up any deficiency therein shall be charged upon payable by and levied off the several and respective townlands in the rateable district in the proportions and in the manner herein-after provided for and such sum shall be applied to that purpose and not otherwise.

Ascertaining amount to be paid by rateable district.

12. For the purpose of ascertaining the sums (if any) which the townlands in the rateable district after the opening of the railway shall respectively pay as by this Act provided to be paid by them and for the purpose of ascertaining the net receipts (if any) from the railway and for other the purposes in this Act mentioned the Board of Trade may during such period as aforesaid upon the request of the Company from time to time by warrant under the hand of their secretary for the time being appoint as arbitrators the county surveyor acting for the time being in 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 such arbitrators dying or resigning or refusing or failing or becoming incapacitated to act and such arbitrators shall from time to time ascertain and determine the amount of the net receipts as prescribed by this Act in respect of the railway in each half year and also any other matters which to them it may appear necessary to inquire into and determine upon in order to ascertain the amount which may be applicable to the payment of the said dividend upon the said baronial guaranteed shares as herein-before provided and shall thereupon apportion and determine the amount

of such half-yearly sums if any to be paid and made up by the several and respective townlands in the rateable district such arbitrators taking into consideration the benefit or supposed benefit immediate or prospective which such townlands may respectively in their opinion have derived or be likely to derive from the formation and opening of the railway and the arbitrators shall set forth the several matters so ascertained and determined by them in a certificate in writing under their hands or in case all the said arbitrators shall be unable to agree under the hands of any two of them and every such certificate shall be in all respects final and binding on the said townlands respectively and from and immediately after the delivery of any such certificate to the secretary of the grand jury of the said county of Cork as by this Act directed the several and respective townlands in the rateable district and all lands hereditaments or premises therein respectively shall be and the same are hereby charged and made chargeable with the payment of such half-yearly sums as shall be specified and set forth in every such certificate and a copy of every such certificate shall be delivered to the Company and the Company shall immediately thereon pay to such arbitrators their costs and expenses and such remuneration for their trouble in regard thereto as the Board of Trade shall order and direct.

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13. If and whenever in any half year there shall remain any surplus of the net receipts from the railway (after deducting from the gross receipts the expenses of the management and working of the railway and the moneys for the time being payable in respect of the interest on any debt or demand secured or created by mortgage or debenture stock of the Company and after deducting dividend at the rate of five pounds per centum per annum upon the capital of the Company by this Act authorised and at the time paid up) and any money shall have been contributed by the townlands in the rateable district to the Company under this Act such surplus shall be paid over by the Company to the treasurer of the said county until all moneys paid to the Company from the said townlands together with the costs and expenses of levying the same shall have been repaid to such treasurer and all moneys so paid to such treasurer shall be carried by him to the credit of the said townlands in proportion to the amounts paid by them respectively under the provisions of this Act and shall be applied by him in reduction of the county cess payable by the said townlands respectively.

Repayment
by Company
of money
contributed
by rateable
district.

14. When and so soon as all moneys contributed from time to time by the townlands in the rateable district together with the

Evidence of
repayment
by Company.

A.D. 1881. 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 said townlands together with the said costs and expenses pursuant to this Act up to the date of such certificate have been repaid by the Company.

Accounts of receipts to be rendered.

15. For the purpose of ascertaining the receipts from the railway and the expenses of the management and working thereof and the sums if any applicable to the payment of the dividend as aforesaid the Company shall from time to time on or before the first day of February and the first day of July in every year make out and render to the arbitrators full true and distinct accounts of all the receipts in the nature of revenue for the then preceding half year ending the thirty-first day of December and the thirtieth day of June in each year arising in any manner from the undertaking and of the expenditure thereof which accounts the arbitrators shall and they are hereby authorised and empowered to examine with the documents and vouchers evidencing the same and all books papers and accounts in the custody and control of the Company relating to the 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 an 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 any liability on the rateable district by virtue of this Act continues keep proper and correct books of account to show the receipts and profits of the undertaking and the expenditure thereof to which books of account the 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 duplicate returns to the said arbitrators 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 clerks of the peace and the arbitrators shall adjust and balance the accounts and as to all matters relating to the said accounts or what shall be considered as gross receipts or net profits from traffic their decision shall in all respects be final and conclusive.

16. The arbitrators shall from time to time deliver the certificate by this Act directed to be prepared by them to the secretary of the grand jury of the county of Cork who shall lay such certificate or a copy thereof before the grand jury at the assizes next after he shall have received the same and it shall be lawful for the grand jury and they are hereby required from time to time and without application to presentment sessions to present the sums mentioned in such certificate together with the costs and expenses of levying the same to be raised and levied on and off the several and respective townlands in the rateable district in the proportions specified in such certificate and the same sums shall be apportioned and raised and levied from and off the said townlands respectively in like manner as any presentment made under the authority of an Act passed in the sixth and seventh years of the reign of His late Majesty King William the Fourth chapter 116 and the Acts amending the same and the treasurer of such county shall out of the first moneys collected and remaining in his hands after payment of Government advances gaol expenses and salaries of public officers payable by him pay the sums 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 grand jury shall fail to present the sums specified in such certificate or any part of such sums together with the costs and expenses of levying the same the treasurer of the county shall and he is hereby required to insert such sums or such part thereof as may have been omitted together with the costs and expenses of levying the same in his warrant for raising the moneys presented at the same assizes as if such sums had been duly presented by such 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 part of the rateable district to which it was apportioned by such certificate accordingly as if the same had been duly presented and the said treasurer shall pay over the amounts so raised and levied to the Company or in such other manner as the Company shall direct. Provided always that the amount of the county cess levied from time to time under the provisions of this Act shall be distinctly specified in the receipts from time to time given to the persons respectively liable to pay and paying the same.

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

17. When any person occupying any lands tenements or hereditaments in any of the townlands in the rateable district who has paid any county cess under the provisions of this Act shall be liable to pay rent in respect of such lands tenements or hereditaments 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

Tenants may deduct half the cess from the rent.

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In case of premises valued at and under four pounds immediate lessors to pay county cess.

18. Whenever the net annual value of all the lands tenements or hereditaments situate in the townlands in the rateable district or any of them occupied by any person under any tenancy does not exceed four pounds so valued under the Acts relating to the valuation of rateable property in Ireland and any grand jury cess is under the provisions of this Act leviable in respect of the said lands tenements or hereditaments then such cess shall after the passing of this Act be paid and payable by the immediate lessor or lessors of such person and may be recovered from such immediate lessor or lessors in like manner as but for the provisions of this section it might have been recovered from the person occupying such lands tenements or hereditaments.

If any such cess payable by any such immediate lessor or lessors be not paid within four months after the same has become due the person duly authorised to collect the same may give notice in writing to the occupier for the time being of such lands tenements or hereditaments to pay the cess due in respect of the same and after the expiration of one calendar month from the time of giving such notice it shall be lawful to recover such cess from such occupier or on his default from any subsequent occupier of the said lands tenements or hereditaments in like manner as if the same were cess due in respect of lands tenements or hereditaments of a net annual value greater than four pounds.

And every such occupier so paying such cess may deduct from the rent he may be then or next thereafter liable to pay in respect of such lands tenements or hereditaments the whole of any such cess that he may have paid in respect of the same and if rent sufficient to cover such cess be not then or do not thereafter become due from such occupier in respect thereof he shall be entitled to recover the same from such immediate lessor or lessors by civil bill.

19. When any moneys may be deducted on account of any county cess paid under the provisions of this Act from any rent payable to any person in respect of any lands tenements or hereditaments and such person shall also pay a rent in respect of such lands tenements or hereditaments he shall be entitled to deduct from the rent payable by him a sum bearing such a proportion to the amount of county cess deducted as aforesaid from the rent payable to him as the rent payable by him bears to the rent payable to him not exceeding the half of the said county cess payable by him. Provided always that no lessee or other person paying any county cess under this Act in respect of any lands tenements or hereditaments held by him for lives renewable for ever or for the residue of any term of years which when originally created shall have been not less than nine hundred years shall deduct any portion of such county cess from the rent payable by him in respect of such lands tenements or hereditaments and Provided also that no deduction in respect of county cess paid under the provisions of this Act 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.

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Sub-lessors may make proportionate reductions from superior landlord's rent.

20. In all cases a receipt for the county cess to be levied under the authority of this Act in respect of any lands tenements or hereditaments 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 county cess for which such receipt shall be given. Provided always that no deduction on account of any payment of county 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 tenements or hereditaments by ejectment for nonpayment of rent thereof in any case where the remaining portion of such gale or quarterly or other payment of rent shall be unpaid but it shall be lawful for such landlord to proceed for the recovery of such lands tenements or hereditaments by ejectment as effectually as if the entire gale quarterly or other payment of rent out of which such deduction is hereby allowed had remained wholly due and unpaid.

Receipt for rates to be taken in discharge.

21. After the expiration of thirty-five years from the opening of the railway or any part of the railway for public traffic the liability of the townlands in the rateable district to contribute any moneys for the purposes of this Act shall cease and determine and the baronial guaranteed shares for fifteen thousand pounds or such part

Cessation of guarantee.

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Actions by
county
treasurer.

22. 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 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 under the provisions of this Act shall be carried by him to the credit of the townlands in the rateable district in proportion to the amounts paid by them respectively under the provisions of this Act and shall be applied by him in reduction of the county cess payable by the said townlands respectively.

Provision in
case of de-
termination
of office of
treasurer.

23. If and when a banking company shall under the provisions of the Act 30 and 31 Victoria chapter 46 become treasurer of the county of Cork the provisions of this Act relating to the treasurer of the said county shall be applicable to the secretary of the said grand jury.

Power to
borrow.

24. When and so soon as ten thousand pounds part of the capital of forty thousand pounds shall have been issued and accepted and one half thereof paid up it shall be lawful for the Company to borrow on mortgage any sum not exceeding five thousand pounds and when the further sum of ten thousand pounds part of the said capital of forty thousand pounds shall have been issued and accepted and one half thereof paid up to borrow on mortgage any further sum not exceeding five thousand pounds and when the further sum of ten thousand pounds part of the said capital of forty thousand pounds shall have been issued and accepted and one half thereof paid up to borrow on mortgage any further sum not exceeding five thousand pounds and when the further sum of ten thousand pounds part of the said capital of forty thousand pounds shall have been issued and accepted and one half thereof paid up to borrow on mortgage any further sum not exceeding five thousand pounds but no part of any of the said four sums of five thousand pounds each shall be borrowed until 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 the whole of the capital in respect of which the borrowing

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power is proposed to be exercised has 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 in such capital 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 shall be sufficient evidence thereof.

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25. 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. 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 hundred pounds in the whole.

Appoint-
ment of a
receiver.

26. 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 granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Debenture
stock.

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

Application
of moneys.

28. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act and the subsequent ordinary meetings of the Company shall be held twice in every year in the months of February or March and August or September respectively as the directors may appoint.

First ordi-
nary meet-
ing.

29. The number of directors shall be four.

Number of
directors.

30. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Qualification
of directors.

31. The quorum of a meeting of directors shall be three.

Quorum.

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First directors.
Election of directors.

32. Adam Perry, John Warren Payne, William Thorley Stewart and one other duly qualified person to be nominated by them or the majority of them and consenting to the nomination 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 nominated as aforesaid 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 or nominated as aforesaid being if qualified eligible for re-election and 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 elect persons to supply the place of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and 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 elected in their stead in manner provided by the same Act.

Lands for extraordinary purposes.

33. 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.

Period for compulsory purchase of lands.

34. 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.

Power to cross certain roads on the level.

35. 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 herein-after mentioned (that is to say) :—

| Number on deposited Plans. | Townland. | Parish. | Description of Road. |
|----------------------------|------------|---------------|----------------------|
| 5 | Cashelmore | Desert-serges | Public road. |
| 17 | Ahaliskey | Kilmaloda | Mail-coach road. |

Inclination of roads.

36. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connexion therewith respectively (that is to say) :—

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| No. on deposited Plans. | Townland. | Parish. | Description of Road. | Intended Inclination. |
|-------------------------|------------|-----------------|----------------------|-----------------------|
| 14 | Lisnacunna | Desert-serges - | Public - | 1 in 20 |
| 3 | Gullanes - | Kilnagross - | Mail-coach - | 1 in 20 |
| 10 | Do. - | Do. - | Public - | 1 in 20 |

37. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

Height and span of bridges.

| No. on deposited Plans. | Townland. | Parish. | Description of Road. | Height. | Span. |
|-------------------------|------------|---------------|----------------------|---------|-------|
| 8 | Gaggan - | Ballymodan | Public - | 15 | 15 |
| 17 | Desert - | Desert - | } Mail-coach | 16 | 25 |
| 1 | Scartagh - | Kilgarriffe - | | | |

38. 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 and 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

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

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

39. It shall be lawful for the limited owner (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.

Power to Lord Carbery or his trustees to subscribe under certain conditions.

40. And whereas the estate of the Right Honourable George Patrick Baron Carbery in the county of Cork will or may be improved by the construction of the railway and it is expedient that he or the trustees of the said estate should be authorised to subscribe for shares in the capital of the Company to the amount herein-after mentioned and to charge such amount upon the said estate. Be it therefore enacted that the said George Patrick Baron Carbery or his successor for the time being in title or the trustees for the time being of the said estate may if they respectively see fit subscribe a sum not exceeding two thousand pounds to the share capital by this Act authorised and may in such case raise the said sum by charging the inheritance or fee of the said estate with the payment of the same and the Company shall in respect of the amount so to be subscribed issue to the said Baron or his successor in title or to the said trustees so many shares as shall be equal in nominal amount to such subscription and the same shares shall be baronial guaranteed shares or ordinary shares or partly of the one and partly of the other description as shall accord with the terms of the subscription and such shares shall be held upon the like uses trusts and for the same purposes and in the same manner as the said estate stands settled. The Company shall with respect

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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 said Baron or his successor in title for the time being or the said trustees in respect thereof shall have all the other rights and powers of a shareholder in the Company Provided that the provisions of this enactment shall not take effect and such shares shall not be issued except on a certificate from time to time given by the Commissioners of Public Works in Ireland certifying that such shares are properly issuable for the purposes of the Improvement of Land Act 1864 and this Act.

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27 & 28 Vict.
c. 114.

41. 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 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.

Power to
take ease-
ments &c.
by agree-
ment.

42. 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 twenty a sum of two thousand pounds being equal to five per cent. upon the amount of the estimate in respect of the railway authorised by this Act 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 recited 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 hereby authorised to be made open the said railway for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the said 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 said railway opened as aforesaid and the portion of the deposit fund which bears to the

Deposit
money not
to be repaid
except so
far as rail-
way is
opened.

A.D. 1881. whole of the deposit fund the same proportion as the length of the said railway so opened bears to the entire length of the said railway hereby authorised the Chancery Division shall on the application of the depositors or the majority of them order the said portion of the deposit fund so specified in the certificate as aforesaid to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall if signed by the secretary or by an assistant secretary of the said Board 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-recited Act to the contrary notwithstanding.

Application
of deposit.

43. If the Company do not previously to the expiration of the period limited by this Act 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 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 may seem fit and if no such compensation is payable or if a portion of the 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 shall have been repaid to the depositors or shall have 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. . . . A.D. 1881.

44. If the 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 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 works.

45. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following (that is to say) :— Tolls for passengers.

In respect of passengers and animals conveyed on the railway :

For any person conveyed in or upon any carriage a sum not exceeding twopence per mile and if conveyed in or upon any carriage belonging to the Company an additional sum not exceeding one penny per mile.

Class I. For every horse mule ass or other beast of draught or burden conveyed in or upon any carriage a sum not exceeding fourpence per mile and if conveyed in or upon any carriage belonging to the Company an additional sum not exceeding one penny per mile.

Class II. For every ox cow bull or head of neat cattle conveyed in or upon any carriage a sum not exceeding twopence per mile and if conveyed in or upon any carriage belonging to the Company an additional sum not exceeding one penny per mile.

Class III. For every calf or pig sheep or lamb dog or other small animal conveyed in or upon any carriage a sum not exceeding one penny per mile and if conveyed in or upon any carriage belonging to the Company an additional sum not exceeding one halfpenny per mile.

In respect of goods conveyed on the railway :

Class IV. For all coal slack cannel dung compost and all sorts of manure lime and limestone and all undressed materials for the repair of public roads and highways per ton per mile not exceeding one penny and if conveyed in or upon any carriage belonging to the Company an additional sum per ton per mile not exceeding one halfpenny. Tolls for goods.

Class V. For all coke, culm, charcoal, and cinders, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, iron-stone, iron ore, pig-iron, sheet-iron, bar-iron, rod-iron, hoop-iron, plates of iron, slabs, billets, and rolled iron, and all other similar descriptions of wrought iron,

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and iron castings not manufactured into utensils or other articles of merchandise, salt, sand, fireclay, slag and stone, or other articles of merchandise per ton per mile not exceeding twopence and if conveyed in or upon any carriage belonging to the Company an additional sum per ton per mile not exceeding one halfpenny :

Class VI. For all sugar, grain, corn, straw, flour, meal, potatoes, hides, dye-woods, earthenware, tow, timber, staves, and deals, nails, metals (except those specified in Class V.), anvils, vices, and chains, per ton per mile not exceeding twopence halfpenny and if conveyed in or upon any carriage belonging to the Company an additional sum per ton per mile not exceeding one halfpenny :

Class VII. For all cotton, flax, linen, and linen or cotton yarns, and wools, drugs, (except vitriol) and manufactured goods, and all other wares, merchandise, fish, articles, matters or things per ton per mile not exceeding threepence halfpenny, and if conveyed in or upon any carriage belonging to the Company an additional sum per ton per mile not exceeding one halfpenny :

Class VIII. For every carriage of whatever description and not being a carriage adapted and used for travelling on a railway and not weighing more than one ton carried or conveyed on a truck or platform not belonging to the Company a sum not exceeding fivepence per mile and if any such carriage be conveyed on a truck or platform provided by the Company an additional sum not exceeding twopence per mile and for every additional quarter of a ton or fractional part of a quarter of a ton above one ton which any such carriage may weigh a further sum not exceeding twopence per mile.

Tolls for
propelling
power.

46. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal or for each ton of goods in addition to the several other tolls or sums by this Act authorised to be taken.

Regulations
as to tolls.

47. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act (that is to say) :—

Short
distances.

For all passengers animals or goods conveyed on the railway for a less distance than three miles the Company may demand tolls and charges as for three miles :

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For a fraction of a mile beyond three miles or beyond any greater number of miles the Company may demand tolls and charges on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile and in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile :

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 —
 Fractional parts of a mile.

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton :

Fractional parts of a ton.

With respect to all articles except stone and timber the weight shall be determined according to the usual avoirdupois weight :

General weight.

With respect to stone and timber fourteen cubic feet of stone forty cubic feet of oak mahogany teak beech or ash and fifty cubic feet of any other timber shall be deemed one ton weight and so in proportion for any smaller quantity.

Weight of stone and timber.

48. With respect to small parcels not exceeding five hundred pounds in weight and single articles of great weight notwithstanding anything in this Act the Company may demand and take any tolls not exceeding the following (that is to say)—

Tolls for small parcels and single articles of great weight.

For the carriage of small parcels on the railway :—

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 in weight the Company may demand any sum which they may 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 :

For the carriage of single articles of great weight on the railway :

For the carriage of any one boiler cylinder or single piece of machinery or single piece of timber or stone or other single article the weight of which with the carriage shall exceed four tons but shall not exceed eight tons the Company may

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demand any sum as they from time to time think fit not exceeding one shilling per ton per mile and if conveyed in or upon any carriage belonging to the Company an additional sum per ton per mile not exceeding sixpence :

For the carriage of any one boiler cylinder or single piece of machinery or single piece of timber or stone or other single article the weight of which with the carriage exceeds eight tons or which on account of the length thereof may require more than one carriage the Company may demand such sum as they think fit.

Maximum
rates for
passengers.

49. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway including the tolls for the use of the railway and for carriages and locomotive power and every other expense incidental to such conveyance shall not exceed the following (that is to say) :—

For every passenger conveyed in a first-class carriage the sum of threepence per mile :

For every passenger conveyed in a second-class carriage the sum of twopence per mile :

For every passenger conveyed in a third-class carriage the sum of one penny per mile.

Maximum
rates for
animals and
goods.

50. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway including the tolls for the use of the railway and for waggons or trucks and locomotive power and for every other expense incidental to the conveyance except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection and any other service incidental to the business or duty of a carrier where any such service is performed by the Company shall not exceed the following sums (that is to say) :—

For every animal mentioned under Class I. fourpence per mile :

For every animal mentioned under Class II. threepence per mile :

For every animal mentioned under Class III. one penny halfpenny per mile :

For everything mentioned under Class IV. one penny halfpenny per ton per mile :

For everything mentioned under Class V. not exceeding twopence halfpenny per ton per mile :

For everything mentioned under Class VI. not exceeding threepence per ton per mile :

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For everything mentioned under Class VII. not exceeding four- pence per ton per mile : A.D. 1881.

For any carriage mentioned under Class VIII. not weighing more than one ton not exceeding sevenpence per mile and if weighing more than one ton for every quarter of a ton or fractional part of a quarter of a ton beyond one ton not exceeding one penny halfpenny per mile.

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

52. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor or are directed to be delivered thereat to the consignee. Terminal station.

53. 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 and goods upon the railway. Foregoing charges not to apply to special trains.

54. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description by agreement with the owners or persons in charge thereof either by reason of any special service performed by the Company in relation thereto or in respect of the conveyance of animals or goods (other than small parcels) by passenger trains. Company may take increased charges by agreement.

55. The Company and the Cork and Bandon Railway Company (herein-after called the Bandon Company) may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into and carry into effect agreements with respect to the following purposes or any of them (that is to say)— Power to enter into working agreements with Cork and Bandon Railway Company.

The working use management and maintenance of their respective railways stations and works or any part or parts thereof respectively. 36 & 37 Vict. c. 76.

The supply and maintenance under any agreement for the respective railways being worked and used by the working Company

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of engines stock and plant and the employment of officers and servants or the conduct of traffic on the respective railways or any part thereof necessary for the purposes of such agreement.

The payments to be made and the conditions to be performed with respect to the matters aforesaid.

The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the railways or stations of the contracting companies or either of them.

The fixing collection payment appropriation apportionment and distribution between the said Companies of the tolls rates income and profits arising from the respective railways and works of the contracting Companies or either of them or any part thereof.

Tolls on traffic conveyed partly on the railway of Company and partly on the railway of Bandon Company.

56. During the continuance of any agreement to be entered into under the provisions of this Act between the Company and the Bandon Company the railways of the Company and of the Bandon Company shall for the purposes of short-distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the Bandon Company for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short-distance charge shall be made for the conveyance of passengers animals or goods partly on the railway and partly on the railway of the Bandon Company.

Saving rights of the Crown in the foreshore.

57. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty her heirs or successors.

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58. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty and vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction: Be it therefore enacted that 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 the said Principal Secretary for the time being; or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

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 —
 Saving rights of Her Majesty's Principal Secretary of State for the War Department.

59. 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.

Interest not to be paid on calls.

60. 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.

61. 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.

Provision as to general Railway Acts.

62. 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.

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SCHEDULE

RATEABLE DISTRICT

The rateable district referred to in this Act means and includes—
The barony of Ibane and Barryroe in the county of Cork
Part of the barony of the West Division of East Carbery in the said county
namely so much thereof as is within the Poor Law Union of Clonakilty
Part of the barony of the East Division of East Carbery in the said county
namely so much thereof as is within the said Poor Law Union of
Clonakilty.

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