



CHAPTER ccxliii.

An Act to revive and extend the powers of the several Acts relating to the Poulnasherry Reclamation; and for other purposes.

A.D. 1884.

[7th August 1884.]

WHEREAS by the Kilrush and Kilkee Railway and Poulnasherry Reclamation Act 1860 (herein-after referred to as "the Act of 1860") a company was incorporated by the name of "The Kilrush and Kilkee Railway and Poulnasherry Reclamation Company" (herein-after referred to as "the Company") for the purpose of making a railway from Kilrush to Kilkee and for the embanking and reclaiming certain waste lands in the estuary of Poulnasherry in the county of Clare and by the said Act the Company were authorised to raise capital in shares to the amount of forty-five thousand pounds whereof the sum of thirty-seven thousand eight hundred pounds was applicable to the railway and seven thousand two hundred pounds to the embankment and reclamation and they were authorised to borrow a sum not exceeding fifteen thousand pounds whereof twelve thousand six hundred pounds was applicable to the railway and two thousand four hundred pounds to the embankment and reclamation:

23 & 24 Vict.
c. 155.

And whereas by the Kilrush and Kilkee Railway and Poulnasherry Reclamation Act 1861 (hereafter called "the Act of 1861") further powers were granted to the Company and they were authorised to deviate a portion of the railway authorised by the Act of 1860 in the townland of Leadmore West parish of Kilrush and also a portion of the line of railway and embankment across the slob lands of Poulnasherry Bay and through the townlands of Carrown-calla parish of Kilrush and Kilnagalliagh and Termon East parish of Kilfearagh and to relinquish the construction of such portions of the said line of railway and embankment in the said townlands as would by the deviation be rendered unnecessary and provisions were made in the said Act for deepening and improving the channel of

24 & 25 Vict.
c. 29.

A.D. 1884. — the creek and harbour of Kilrush and for constructing a quay or landing-place and other necessary works for the accommodation of the trade of the said harbour and for levying tolls rates and dues in connexion therewith :

And whereas by the same Act the Company were authorised to raise a further sum of fifteen thousand pounds by shares and five thousand pounds by mortgage and the share capital of the Company was declared to be sixty thousand pounds of which the sum of thirty-seven thousand eight hundred pounds was applicable to the railway and landing-place and the sum of twenty-two thousand two hundred pounds to the embankment and reclamation and the money which the Company might borrow on mortgage was declared to be twenty thousand pounds of which the sum of twelve thousand six hundred pounds was to be applicable to the railway and landing-place and the sum of seven thousand four hundred pounds to the embankment and reclamation :

28 & 29 Vict.
c. 130.

And whereas by the Kilrush and Kilkee Railway Act 1865 the Company were authorised to attach a preference to the shares created under the recited Acts to any amount not exceeding twenty thousand pounds and the two parts of the capital of the Company (namely) the one part applicable to the railway and landing-place and the other part to the embankment and reclamation were amalgamated :

And whereas by the same Act the Company were authorised to extend their railway to near the town of Kilrush and to relinquish the construction of a portion of the railway rendered unnecessary by such extension and further time was granted to the Company for the purchase of lands and the completion of their works :

35 & 36 Vict.
c. 90.

And whereas by the Kilrush and Kilkee Railway and Poulnasherry Reclamation Act 1872 (herein-after referred to as "the Act of 1872") the powers of the said recited Acts were revived and additional powers conferred upon the Company and the periods for the compulsory purchase of land and the completion of the railway and works were further extended :

And whereas a large sum of money has been spent in the execution of the embankment and other reclamation works :

And whereas the powers of the recited Acts have expired and it is expedient that such of the said powers as relate to the reclamation should be revived and extended and that the Company should be authorised to construct and complete the same together with the embankments catchwater drains and works and reclaim the said waste lands :

And whereas plans and sections of the embankment catchwater drains and works connected with the reclamation authorised by the

recited Acts showing the situation lines and levels thereof respectively and the lands to be taken for the purposes thereof and the waste lands to be reclaimed and also a book of reference to the plans 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 of the reclamation and works connected therewith were duly deposited with reference to this Act with the clerk of the peace for the county of Clare and are herein-after respectively referred to as the deposited plans sections and book of reference :

And whereas the completion of the reclamation would be of public and local advantage but it has heretofore been found impossible under the powers of the recited Acts to raise sufficient capital for that purpose :

And whereas the purposes 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 :—

1. This Act may be cited as the Poulnasherry Reclamation Act 1884. Short title.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say)— Incorporation of general Acts.

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 non-payment of calls :

The remedies of creditors of the Company against the shareholders :

The borrowing of money by the Company on mortgage or bond :

The conversion of borrowed money into capital :

The consolidation of shares into stock :

The giving of notices : and

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

Part I (relating to cancellation and surrender of shares) and Part II (relating to additional capital) of the Companies Clauses Act 1863 the Lands Clauses Consolidation Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Acts (Ireland) 1851 1860 and 1864 and the Railways Traverse Act are (except

A.D. 1884. — respect of the reclamation undertaking and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act.

Mortgages to be first charge after land claims on reclaimed land.

12. All money borrowed or to be borrowed on mortgage by the Company under the provisions of the recited Acts or this Act shall subject to the priority of any mortgages granted by the Company before the passing of this Act be applied to the purposes of the reclamation and works connected therewith and shall be a first charge on the reclaimed lands and have priority against the Company and the property from time to time of the Company over any claims on account of any debts incurred or engagements entered into by them with the London Financial Association Limited before the passing of this Act and over all other claims on account of any debts incurred or engagements entered into by the Company after the passing of this Act but nothing herein-before contained shall affect any claim for land taken used or occupied by the Company for the purposes of the reclamation or works connected therewith or injuriously affected by the construction of such works or by the exercise of any powers conferred on the Company.

Application of moneys.

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

Directors.

14. The directors shall be elected by the holders of shares and mortgages to be created and issued under the provisions of this Act who shall respectively each have one vote for every share or ten pounds worth of mortgages which they respectively hold in the Company.

Qualification of directors and appointment of new directors.

15. From and after the passing of this Act the qualification of a director shall be the possession in his own right of not less than ten shares or mortgages created and issued pursuant to this Act to the amount of one hundred pounds and James Fitzgerald Lombard Daniel Sullivan and William Martin Murphy are hereby appointed three of the directors of the Company.

Appointment and election of directors.

16. At the first ordinary meeting of the Company held after the passing of this Act the shareholders and mortgagees present in person or by proxy may either continue in office the directors appointed by this Act and then in office or any of them or may elect new directors or directors to supply the place of the directors not continued in office the directors appointed by this Act 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 and mortgagees 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 this Act and the 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.

A.D. 1884.

17. The Company may with the consent of any limited owner pay the 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 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 on the like trusts and for the same purposes and in the same manner as the lands in respect of the purchase money for which the 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 affecting such shares and subject to the uses trusts and purposes affecting the same 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 seven of the Lands Clauses Consolidation Act 1845 may under the authority of the said section be lawfully authorised. Provided also that no such payment in 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 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 said Commissioners shall direct.

Payment of
purchase
money to
limited
owners in
shares in cer-
tain cases.

18. It shall be lawful for any limited owner of any land which the Company are authorised to take for the purposes of their undertaking 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

Power to
limited
owners to
convey lands
free of charge
in certain
cases.

A.D. 1884.

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.

Extending
time for pay-
ment of
twelve hun-
dred pounds
to Commis-
sioners of
Woods &c.
and remitting
interest on
said sum.

19. Whereas by section twelve of the Act of 1872 it was enacted that the forty-ninth section of the Act of 1860 providing for the payment of the sum of one thousand two hundred pounds with interest to the Commissioners of Her Majesty's Woods Forests and Land Revenues in respect of Her Majesty's estate and interest in the lands to be embanked and reclaimed should be thenceforth read and construed as if the date of the first day of January one thousand eight hundred and seventy-three were substituted for the first day of January one thousand eight hundred and sixty-two and as if the date of the first day of January one thousand eight hundred and seventy-six were substituted for the first day of January one thousand eight hundred and sixty-four And whereas it is expedient to extend the provisions of the said section so far as regards the time for payment of the said sum of one thousand two hundred pounds and interest thereon Therefore the said forty-ninth section of the Act of 1860 shall be henceforth read and construed as if the date of the first day of January one thousand eight hundred and eighty-seven were substituted for the first day of January one thousand eight hundred and seventy-three and as if the date of the first day of January one thousand eight hundred and eighty-eight were substituted for the first day of January one thousand eight hundred and seventy-six and all interest on the said sum of one thousand two hundred pounds up to the said first day of January one thousand eight hundred and eighty-seven is by this Act remitted in favour of the Company.

Saving rights
of the Crown.

20. Nothing contained in this Act (except as herein expressly provided) shall authorise the Company to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Commissioners of Her Majesty's Woods Forests and Land Revenues or either of them without the consent in writing of the same Commissioners or one of them on behalf of Her Majesty first had

and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to 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.

A.D. 1884.

21. 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.

Saving rights
of the Crown
in the fore-
shore.

22. Whereas all lands to the seaward of the lands by this Act authorised to be acquired now are below the line of ordinary high-water mark therefore if any land to the seaward of the lands by this Act authorised to be acquired shall at any time after the execution of any works under the authority of this Act become raised in height or reclaimed whether gradually or imperceptibly or otherwise so as to be above instead of below such line of ordinary high-water mark the Company shall not by virtue of the ownership of any lands which they are by this Act empowered to acquire have any estate right or interest in or to the lands so raised in height or reclaimed by reason that such raising or reclamation has been gradual or imperceptible or has been either wholly or partially caused by the works by this Act authorised or otherwise but the right and title to the soil and freehold of such land when so raised or reclaimed shall continue vested in the Queen's Majesty or such other corporation or person or persons as is or are at the time of the passing of this Act entitled to the same and as if the same had continued as the same now is subject to the flow and reflow of the ordinary tides.

Saving of
rights as to
future accre-
tions.

23. 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.

