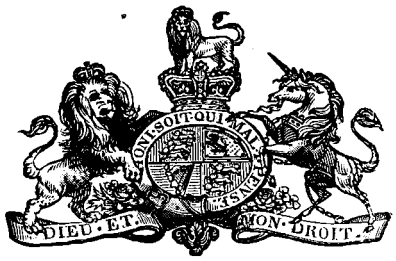

CHAP. cxxxvii.

An Act to enable the Waterford and Wexford Railway Company to make Deviations from, and Extension in, their authorised Railway; to abandon a portion of their authorised Railway; to extend the time for the purchase of Lands and completion of Works; and for other purposes. A.D. 1871.

[13th July 1871.]

WHEREAS an Act was passed in the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, intituled "An Act to authorise the construction of a Railway and "Branch Railway, to be called 'The Waterford and Wexford "Railway,' and of a Harbour in Greenore Bay; and for other "purposes," herein-after called "the Act of 1864:" 27 & 28 Vict. c. ccxvi.

And whereas by "The Waterford and Wexford Railway Act, 1867," (in this Act called the Act of 1867,) the time granted by the said Act of 1864 for the compulsory purchase of lands and execution of the railways and works thereby authorised was extended, and facilities were afforded to the Company for raising the funds necessary to execute their undertaking: 30 & 31 Vict. c. cxl.

And whereas it is expedient that the Company should be authorised to deviate certain portions of their said railway and to acquire additional lands:

And whereas a portion of the railway authorised to be made by the Act of 1864 will be rendered unnecessary in consequence of the construction of such new lines of railway, it is expedient that the construction of a portion of the said authorised lines of railway should be abandoned:

And whereas it is expedient that the time limited by the Company's said Acts of 1864 and 1867 for the compulsory purchase of lands and for completion of works, or some of them, be further extended:

And whereas plans and sections showing the lines, situations, and levels of the proposed deviations and works, and books of

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reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of lands in the line of the proposed new works, or within the limits of deviation as defined on the said plans, and describing those lands, have been deposited with the clerk of the peace for the county of Wexford, and those plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

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

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

Short title.

1. This Act may be cited for all purposes as "The Waterford and Wexford Railway Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Companies Clauses Consolidation Act, 1845," "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to the construction of a railway), Part II. (relating to extension of time), and Part III. (relating to working agreements) of "The Railways Clauses Act, 1863," are, except where expressly varied by this Act or inconsistent with the express provisions thereof, 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 shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction. The expression "the Company" shall mean the Waterford and Wexford Railway Company; the expression "the Act of 1864" shall mean "The Waterford and Wexford Railway Act, 1864;" the expression "the Act of 1867" shall mean "The Waterford and Wexford Railway Act, 1867;" the expression "the plans of 1864" shall mean the plans referred to in the Act of 1864; the expression "the railway" and "the undertaking" respectively shall mean the railway and the undertaking by the Act of 1864 and by this Act, or either of them, authorised; and the expression "superior courts," or "court of competent jurisdiction," or any other like expression in this Act, or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

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Power to make railways according to deposited plans.

4. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the lines of railway herein-after described, with all proper stations, 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 book of reference, as may be required for that purpose. The lines of railway herein-before referred to and authorised by this Act are:—

Deviation No. 1. A railway, five furlongs in length, wholly situated in the county of Wexford, commencing at a point in the sea eighty-eight yards north of where the boundary line between the townlands of Ballygillane Big and Ballygillane Little touches high-water mark in the Bay of Ballygery, in the parish of Kilrane and county of Wexford, and passing through the townlands of Ballygillane Big and Ballygillane Little and Ballygery in the same parish, and terminating by a junction with the Waterford and Wexford Railway, authorised by the Act of 1864, at a point marked five miles three furlongs and five and a half chains in a field in the said townland of Ballygery, numbered thirty-two in the plans deposited with the clerk of the peace for the county of Wexford with reference to the Act of 1864.

Deviation No. 2. A railway, four miles two furlongs and five and a half chains in length, wholly situated in the county of Wexford, commencing by a junction with that part of the authorised line of the Waterford and Wexford Railway called Branch to Harbour, at a point marked one mile one furlong and twenty-five chains in a march or intake from the sea, known as the South Reclamation, and described coal channel and extra-parochial, in the county of Wexford, numbered nine in the plans deposited with the clerk of the peace for the county of Wexford with reference to the Act of 1864, and passing through the townlands of Drinage South and Drinage North in the parish of Drinage, and the townland of Strandfield in the parish of Kerloge, and the townlands of Rocksborough and Maudlintown in the parish of Maudlintown, and the townland of Townspark in the parish of Saint Michael of Feagh, and the parishes of Saint Doologe, Saint Mary's, Saint Patrick's, Saint Iberius, and Saint Selskar's, in the town of Wexford, and terminating in the last-mentioned parish, at the south edge of the causeway leading to the site of the old bridge of Wexford, near to where it joins the present quay walls.

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Proposed junction with Dublin, Wicklow, and Wexford Railway.

5. And whereas the line of the railway of the Dublin, Wicklow, and Wexford Railway Company is authorised to terminate at the same point as the deviation railway No. 2 by this Act authorised, it shall therefore be incumbent on the Company to form a junction between their railway and the railway of the Dublin, Wicklow, and Wexford Railway at this point for the convenient interchange of traffic, and to do all things necessary to that end.

Gauge of railways.

6. The deviation lines of railway authorised by this Act shall be on the same gauge as the railways authorised by the Act of 1864, namely, five feet three inches.

Company to make and maintain quay in lieu of portion of existing quay to be used for purposes of this Act.

7. The Company shall not, without the previous consent in writing of the Wexford Harbour Commissioners, enter upon or use, temporarily or permanently, any part of the existing quay, causeway, or other property of the said Commissioners, until the Company shall in lieu thereof have constructed and completed at their own expense, in a substantial and workmanlike manner, under the direction and to the satisfaction of the engineer of the said Commissioners, and according to plans and specifications to be previously approved of by him, a quay and wharf supported on wooden piling along the whole river front of the said existing quay, and not less than ten feet in breadth, nor until the Company shall have legally vested or procured to be vested in the said Commissioners the quay and wharf so to be constructed and the site thereof, free of all incumbrances; and the Company shall in all time thereafter maintain, and when necessary repair and renew, the said quay and wharf so to be constructed by them, so that the same shall be at all times in efficient working order and condition, to the satisfaction of the engineer of the said Commissioners.

Such portion of existing quay to be used only for line of railway, and if not so used to revert to Harbour Commissioners.

8. The Company shall not take or acquire any right of property in any portion of the existing quay, causeway, or other property of the Wexford Harbour Commissioners, but shall acquire only such an easement in and upon so much thereof as may be necessary for constructing and maintaining, and shall construct and maintain two lines of railway along the same (the second line to be used solely as a siding, except with the consent of the said Commissioners), in such manner that the upper surface of the rails shall be on the existing levels thereof, and in the line delineated on the deposited plans, and the said portion of the existing quay, causeway, and other property of the said Commissioners shall be used only for a line of railway, and the said Commissioners, and all persons, may cross and carry traffic free of charge across such line of railway to and from the quay and wharf to be constructed by the Company as

aforesaid, but subject to and only so far as the same may be authorised by such rules and regulations as the Commissioners may from time to time prescribe by byelaws, which they are hereby authorised and empowered to make, and which byelaws may be made in like manner and with the same penalties, and subject to the same conditions in every respect as byelaws under the authority and for the purposes of an Act passed in the sixth and seventh years of Her present Majesty, intituled "An Act for improving, maintaining, "and regulating the Harbour of Wexford, in the county of Wex-"ford," as amended by an Act passed in the twenty-fifth and twenty-sixth years of Her present Majesty, intituled "An Act to "dissolve the present body of the Wexford Harbour Commissioners, "and to appoint new Commissioners, and for other purposes." And in the event of the Company not completing and opening for public traffic the said line of railway for a period of twenty-four months after they shall enter upon the said existing quay, causeway, or other property, or of their ceasing or failing efficiently to work the said line of railway at any time thereafter, the right of the Company to use the said portion of the said existing quay, causeway, and other property of the said Commissioners shall thereupon cease, and the said Commissioners may forthwith resume possession of and enjoy the same free from all the powers and from all incumbrances created under the provisions of this Act.

Speed for short distance.

9. It shall not be lawful for the Company, or for any other company, body, or person, to run any train or any engine or carriage of any description along that portion of the railway which will be situated upon the quay of Wexford Harbour at a greater speed than five miles an hour, under a penalty of five pounds for each offence.

Regulation of traffic over quay of Wexford.

10. The Board of Trade may, on the application of the Wexford Harbour Commissioners, make such orders with respect to the number of trains, engines, and carriages which shall pass along that portion of the railway which will be situated upon the quay of Wexford Harbour, and with respect to the hours during which the same shall so pass, as the said Board shall consider necessary for preventing obstruction or inconvenience to the trade at Wexford Harbour; and such orders shall be binding on and fulfilled by the Company and all other companies, bodies, and persons using such railway.

Abandonment of part of railway authorised by Act of 1864.

11. The Company shall abandon and relinquish the construction of so much of the railway authorised by the Act of 1864 as is situated between the junction of the Deviation No. 1 authorised by this Act with the railway authorised by the Act of 1864 and the

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termination of the last-mentioned railway at South Bay, otherwise Greenore Bay, near Greenore Point, and also the construction of so much of the railway authorised by the Act of 1864 as is situated between the junction of the Deviation No. 2 authorised by this Act with the railway authorised by the Act of 1864 and the termination of the last-mentioned railway at its point of junction with the Dublin, Wicklow, and Wexford Railway, in the parish of Carrick, in the county of Wexford.

Compensation for damage to land by entry, &c. for purposes of abandoned lines.

12. The abandonment by the Company under the authority of this Act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation in accordance with the provisions in that behalf of "The Lands Clauses Consolidation Act, 1845," for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation in accordance with the provisions in that behalf of "The Railways Clauses Consolidation Act, 1845," for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in the last-mentioned Act, or the Act of 1864.

Compensation to be made in respect of abandoned lines.

13. Where before the commencement of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purpose of or in relation to any portions of the railways or works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice; and the amount and application of the compensation shall be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Power to apply corporate funds to purposes of this Act.

14. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands, or which they have power to raise by shares or mortgage by virtue of any Act or Acts relating to the Company, and which are not required for the purposes for which the same were authorised to be raised.

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15. The powers granted to the Company by the Acts of 1864 and 1867 for the compulsory purchase of lands are hereby extended, and may be exercised by the Company for and during a period of two years from the passing of this Act, and on the expiration of that period those powers shall cease.

Powers for compulsory purchase of lands extended.

16. The time limited by the Acts of 1864 and 1867 for the completion of the railways and works thereby authorised shall be and the same is hereby further extended and enlarged until the expiration of three years from the passing of this Act; and on the expiration of that period the powers by this Act, and the Acts of 1864 and 1867 incorporated therewith, granted to the Company for constructing the railways and works or otherwise in relation thereto, shall cease to be exercised, except as to so much of the railways and works as shall then be completed.

Extension of time for completion of railways and works.

17. The Dublin, Wicklow, and Wexford Railway Company may run over and use with their engines, carriages, and waggons the railways hereby authorised after the junction therewith is formed, and may also use all conveniences connected with the said railways: Provided always, that the Dublin, Wicklow, and Wexford Railway Company shall not use the powers by this section conferred upon the said Company to divert traffic from the railways of the Company. The said railways shall be run over and used on such terms and conditions as shall be agreed upon between the Company and the Dublin, Wicklow, and Wexford Railway Company. In case of differences in respect of any matter provided for by this enactment, or arising in the exercise of any of the powers hereby conferred, the same shall be determined by an arbitrator to be appointed by the Board of Trade on the application of either Company, and such arbitrator shall ascertain and determine the terms upon which the said railways shall be run over and used.

Power to Dublin, Wicklow, and Wexford Railway Company to use deviation railways.

18. The railway and works by this Act authorised shall, for all purposes of tolls, rates, and charges, and for all other purposes whatsoever, except as to the time limited for the compulsory purchase of lands, and for constructing the works, be part of the undertaking of the Company, as if authorised by "The Waterford and Wexford Railway Act, 1864."

New lines of railway to be part of Company's undertaking.

19. Nothing contained in this Act, or any of the Acts herein referred to, 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

Saving rights of the Crown in the foreshore.

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Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in the said Act or Acts 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.

Any land reclaimed by the works not to be taken without the consent of the Board of Trade.

20. If in the course or by means of the execution of any of the works by this Act authorised any part of the shores or bed of the said harbour, or of the sea beyond the mouth thereof, belonging to Her Majesty, shall be inned, gained, or reclaimed from the water, the said Company shall not have or exercise any right upon the same or in respect thereof, and shall not enter upon, take, use, or interfere with the land so inned, gained, or reclaimed for any purpose whatsoever, without the consent in writing of the Board of Trade on behalf of Her Majesty, but such inning, gaining, or reclamation shall enure absolutely for the benefit of the Queen's Majesty, her heirs and successors.

Saving of rights as to future accretions.

21. If any land to the seaward of the lands by this Act authorised to be embanked or reclaimed 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 being, as all land to the seaward of the lands by this Act authorised to be reclaimed now is, below the line of ordinary high-water mark of the said harbour, the Company shall not, by virtue of the ownership of any lands which they are by this Act empowered to reclaim, 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 or reflow of the ordinary tides.

Saving rights of the Crown.

22. Nothing contained in this Act or any of the Acts herein referred to shall authorise the said Company to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of her Crown, without the consent in writing of the Commissioners for the time being of Her Majesty's Woods, Forests, and Land Revenues, 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 the said Act or Acts contained divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of Wexford Harbour Commissioners.

23. Nothing in this Act contained shall extend to prejudice or derogate from the jurisdiction or authority or any of the rights or privileges of the Wexford Harbour Commissioners.

Interest not to be paid on calls paid up.

24. The Company shall not, out of any money by any Act relating to the Company authorised to be raised by calls in respect of shares, or by the exercise of any power of borrowing, pay to any shareholder interest or dividend on the amount of calls made in respect of the shares held by him: Provided always, that the Company may pay to any shareholder such interest on money advanced by him beyond the amount of calls actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

25. The Company shall not, out of any money by any Act relating to the Company authorised to be raised, pay or deposit any sum of money which, by any standing order of either House of Parliament now or hereafter in force, may require 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 execute any other work or undertaking.

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

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

Expenses of Act.

27. All the costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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