

**CHAPTER lxxxvii.**

An Act to authorize the Cork and Bandon Railway Company to construct a Deviation Railway in substitution for a portion of their existing Railway; to raise further Capital by Debenture Stock; to consolidate their Preference Stocks; and for other purposes.

A.D. 1888.

[5th July 1888.]

WHEREAS it is expedient that the Cork and Bandon Railway Company (in this Act called "the Company") should be authorized to construct a deviation railway in the parish of Ballinaboy in the East Riding of the county of Cork in substitution for the Ballinhassig Tunnel and a portion of their existing railway:

And whereas it is expedient that the Company should be authorized to acquire additional lands for the purposes of sidings and other accommodation connected with their undertaking:

And whereas plans and sections showing the lines and levels of the railway by this Act authorized to be made and plans of the lands before referred to and by this Act authorized to be acquired and appropriated and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the respective clerks of the peace for the East and West Ridings of the county of Cork and with the clerk of the peace for the county of the city or borough of Cork and are hereinafter respectively referred to as the deposited plans sections and books of reference:

And whereas the Company have by their various Acts been authorized to raise the sum of five hundred and sixty-four thousand six hundred and thirty-eight pounds by shares:

And whereas the authorized loan capital of the Company is one hundred and eight thousand pounds:

And whereas it is expedient that the Company should be authorized to raise the money required for the purposes of this Act by the creation and issue of debenture stock:

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And whereas it is expedient that provision should be made for the consolidation of the different classes of preference stock in the capital of the Company in the manner in this Act provided :

And whereas it is expedient that the name of the Company and of their undertaking should be changed :

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 :—

Short title.

1. This Act may be cited for all purposes as the *Cork Bandon and South Coast Railway Act 1888.*

Incorporation of general Acts.

2. The Companies Clauses Consolidation Act 1845 and Part III. (relating to debenture stock) and Part IV. (relating to change of name) of the Companies Clauses Act 1863 the Lands Clauses Consolidation Act 1845 as amended by the Railways Act (Ireland) 1851 the Railways Clauses Consolidation Act 1845 the Railways Act (Ireland) 1851 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Act (Ireland) 1860 the Railways Act (Ireland) 1864 the Railways Traverse Act and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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.

As to deposit of plans with clerks of unions.

4. With reference to this Act all the provisions of sections 7 8 and 9 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.

Power to make railway.

5. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway hereinafter described with all proper stations sidings approaches works and conveniences connected with such railway 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 those purposes (that is to say) :—

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A deviation railway one mile four furlongs one chain in length situate in the parish of Ballinaboy and county of Cork in substitution for a portion of the existing railway and Ballinhassig Tunnel of the Company commencing by a junction with the railway of the Company at a point three hundred and thirty yards or thereabouts north of the north face of the said Ballinhassig Tunnel in the townland of Rearour and Barrettshill passing thence into and terminating in the townland of Goganshill by a junction with the railway of the Company at a point three hundred and thirty yards or thereabouts south of the south face of the said tunnel.

6. Subject to the provisions of this Act and in addition to the other lands which they are by this Act authorized to acquire the Company may from time to time enter upon take use and appropriate to purposes connected with their undertaking all or any of the lands following delineated on the deposited plans and described in the deposited books of reference relating thereto respectively (that is to say) :—

Power to acquire lands for general purposes of undertaking

Certain lands in the parish of Saint Nicholas in the county of the city or borough of Cork situate between the Company's railway and Rockboro' Road (formerly known as Sleigh's Lane) ;

Certain lands in the townland of Lissanisky and parish of Knockavilly in the county of Cork (East Riding) lying on the south side of and adjoining the railway of the Company ;

Certain lands in the townland of Dunkereen and parish of Inishannon in the county of Cork (East Riding) lying on the north side of and adjoining the Upton Station and railway of the Company ;

Certain lands in the townland of Clogheenavodig in the parish of Ballymodan township of Bandon in the county of Cork (West Riding) situate near the Bandon Station of the Company lying on the north and south sides of the Company's railway and adjoining the siding known as "Allmans siding" ;

Certain lands in the townland of Cloghmacsimon in the parish of Ballymodan township of Bandon in the county of Cork (West Riding) lying on the south side of the Company's railway and adjoining that portion of the said lands of Clogheenavodig and lying to the south of Allmans siding ;

Certain lands in the townland of Gaggan and parish of Ballymodan in the county of Cork (West Riding) lying on the south side of

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the Company's railway adjoining their station at the Clonakilty Junction ;

Certain lands in the townland of Kilcolman Park and parish of Desertserges in the county of Cork (West Riding) lying on the north side of and adjoining the Company's railway (West Cork section) ;

Certain lands in the townland of Derrigra and parish of Kinneigh in the county of Cork (West Riding) lying on the north side and also on the south side of and adjoining the Company's railway (West Cork section) ;

Certain lands in the townlands of Dunmanway South and Brookpark and parish of Fanlobbus in the county of Cork (West Riding) lying on the north side of the Company's railway and adjoining their station at Dunmanway ;

Certain lands in the townland of Inchingerig and parish of Caheragh in the county of Cork (West Riding) lying to the north side of and adjoining the Company's railway (Bantry Extension section).

Abandonment of portion of the Cork and Bandon Railway.

7. When and so soon as the railway by this Act authorized is completed and opened for public traffic the Company may abandon and discontinue the maintenance of so much of their existing railway and of the Ballinhassig Tunnel as is situate between the commencement and termination of the said deviation railway. And the Company may sell so much and such parts of the site of the said portion of railway and tunnel and the station approach road and buildings connected therewith as shall not be required by the Company for other purposes of their undertaking.

Railway to form part of railway of the Company.

8. The Company may demand and receive for and in respect of the railway by this Act authorized the same tolls and charges which they may now receive in respect of their existing undertaking and the railway shall in all respects be deemed part of the railway of the Company. Provided that the Company shall not be entitled to demand and take from the public a larger sum in respect of tolls rates and charges for passengers animals and goods conveyed on the railway by this Act authorized than they would have been entitled to demand and take in respect of traffic conveyed by the railway and tunnel by this Act authorized to be abandoned.

Period for compulsory purchase of lands.

9. The powers of the Company for the compulsory purchase of lands for the purposes of the railway by this Act authorized shall not be exercised after the expiration of two years from the passing of this Act and as regards the lands which they are by this Act authorized to acquire for the general purposes of their

undertaking after the expiration of three years from the passing of this Act. A.D. 1888.

10. In altering for the purposes of this Act the road next hereinafter mentioned the Company may make the same of any inclination not steeper than the inclination hereinafter mentioned in connection therewith respectively (that is to say) :— Inclination of certain road.

Number on Deposited Plans.	Parish.	Townland.	Description of Road.	Intended Inclination.
38	Ballinaboy	Gogganshill	Public road	1 in 12

11.—(1.) The Company shall not under the powers of this Act purchase or acquire in any urban sanitary district as defined by the Public Health (Ireland) Act 1878 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers. As to taking houses of labouring class.

(2.) For the purposes of this section the expression “labouring class” includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

12. If the Company fail within the period limited by this Act to complete the railway the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and open for public traffic or until the sum received in respect of such penalty amounts to five per centum on the estimated cost of the works and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the solicitor to Her Majesty’s Treasury and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name of the Accountant-General of the Supreme Court of Judicature in Ireland Imposing penalty unless railway opened.

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Providing for application of penalty in compensation to parties &c. injured.

13. Every sum of money so recovered by way of penalty as aforesaid 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 has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court of Justice in Ireland may seem fit and if no such compensation is payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid has been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty 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 Court thinks fit to order on the application of the solicitor to 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 Court 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.

On expiration of time limited for completion of railway power to cease.

14. If the railway authorized by this Act shall not be completed within five years from the passing of this Act then on the expiration of such 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 shall then be completed.

15. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandize train on the railways of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandize are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling.

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Classification table to be open to inspection and copies to be sold.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railways render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railways shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

Terminal charges (if any) to be specified on application.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Penalty.

16. The Company may create and issue debenture stock not exceeding in the whole forty thousand pounds subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Power to raise debenture stock for purposes of Act.

17. The Company may apply to the purposes of this Act to which capital is properly applicable 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 Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power to apply corporate funds.

18. All moneys raised under this Act by debenture stock shall be applied only for the purposes of this Act and for the general

Application of moneys.

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Providing for consolidation of preference stocks.

19. Whereas by virtue of several Acts of Parliament the Company have created and issued preference stocks and have attached to such stock dividends of different amounts and the Company have also by way of consideration for the purchase or acquisition of the undertakings of other companies created other preference stocks and it would be convenient to the holders of such stocks and to the Company if the same were consolidated in the manner and subject to the conditions and restrictions hereinafter prescribed and it is expedient that provision should be made accordingly :

Therefore:—

Directors to prepare scheme.

(1.) The directors of the Company may at any time after the passing of this Act prepare a scheme for the consolidation of all the preference stocks and for the conversion of those stocks into stock to be called "consolidated preference stock" of such amount and with such dividend and such other privileges and conditions attached thereto as the scheme shall define ;

Scheme to be circulated.

(2.) They shall send a copy of the scheme to all the proprietors of preference stocks accompanied by a notice that the scheme will be submitted to the consideration of a separate meeting of each class of such proprietors ;

Meeting of proprietors of preference stocks.

(3.) Not sooner than one month nor later than two months after the circulation of the scheme the directors shall convene separate meetings of the proprietors of the several preference stocks to which the scheme relates or which may be affected thereby and the directors shall submit such scheme to such meeting. If the proprietors present in person or by proxy at any such meeting and holding one-fourth in value of the total amount of preference stock represented at such meeting object to the scheme so far as it relates to such stock the same shall not be carried into effect but in respect of the other stocks and in respect of all the stocks to which the scheme relates if no such objection is made the scheme shall be declared to be approved ;

Scheme to be submitted to general meeting of the Company.

(4.) The scheme so approved shall be submitted by the directors to a general meeting of the proprietors of the Company duly convened with special notice of the matter. If the scheme is approved by a majority of the votes of the proprietors present in person or by proxy in respect of the stock held by them it shall be carried into effect by the directors but if the same is disapproved of by such majority the scheme shall not be proceeded with ;

(5.) For the purpose of carrying any scheme so approved of into effect the directors shall have and may exercise the following powers :—

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 New consolidated preference stock and certificates to be issued in place of existing preference stock and certificates to be cancelled.

(A.) They may for the purposes of the scheme create and issue consolidated preference stock of such amount and with such dividends and other provisions and conditions attached thereto as may be required to give effect to the scheme. Provided that the aggregate amount of the dividends payable upon the consolidated preference stock so created shall not exceed the aggregate amount of the dividends payable upon the stocks in substitution for or in respect of which the consolidated preference stock is created ;

(B.) Forthwith upon the consolidation taking effect they shall issue to every holder of the stocks so consolidated free of charge for so doing a certificate for and representing such an amount of consolidated preference stock as such holder is entitled to :

Provided always that until the issue of such new certificates the existing certificates and the holders thereof shall bear and possess the same rights and advantages as they would have had and possessed if this Act had not passed. But when such new certificates are issued the existing certificates shall be deemed to be cancelled. Provided also that the Company shall not be required to issue any new certificate unless and until the existing certificate in substitution for which it is issued is given up to be cancelled or is proved to the satisfaction of the Company to have been lost or destroyed.

20. Consolidated preference stock issued to any person or persons in substitution for any preference stock or stocks shall be subject to the same trusts powers testamentary and other dispositions provisions and incumbrances as the money secured or represented by the preference stock or stocks was subject to immediately before the substitution and every deed or other instrument or any testamentary or other disposition shall take effect with reference to the whole or proportionate part of the substituted consolidated preference stock as the case may be.

Consolidated preference stock to be held on same trusts &c.

21. Trustees executors and administrators may accept any consolidated preference stock created and issued under the authority of this Act in substitution for any other preference stock consolidated under the authority of this Act and may hold dispose of or otherwise deal with the same in all respects as they might have held disposed of or otherwise dealt with the stock or shares for which such consolidated preference stock was substituted.

Trustees &c. may accept consolidated preference stock.

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Votes of holders of consolidated preference stock.

22. At all general meetings of the Company every holder of consolidated preference stock shall have one vote in respect of every one hundred pounds of such stock held by him up to one thousand pounds and he shall have an additional vote for every sum of five hundred pounds up to ten thousand pounds and an additional vote for every one thousand pounds beyond the first ten thousand pounds Provided that no holder of such stock shall be entitled to vote in respect of any less amount thereof than one hundred pounds.

Saving rights of West Cork four per cent. preference and Kinsale four per cent. preference stockholders.

23. Nothing in this Act contained or in any scheme hereunder shall prejudice alter vary or affect the rights priorities and privileges of the holders of West Cork four per cent. preference stock or Kinsale four per cent. preference stock created and issued under the Cork and Kinsale Junction Cork and Bandon West Cork and Ilen Valley Railways Act 1879.

Change of name.

24. Subject to the provisions of Part IV. (relating to change of name) of the Companies Clauses Act 1863 the name of the Company shall from and after the passing of this Act be "The Cork Bandon and South Coast Railway Company" and this undertaking shall be "The Cork Bandon and South Coast Railway."

Interest not to be paid on calls paid up.

25. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorized to raise 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.

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

26. The Company shall not out of any money by this Act authorized 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 authorizing the Company to construct any other railway or to execute any other work or undertaking.

Railway to be subject to general Acts.

27. 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 authorized

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maximum rates of fares and charges or of the rates for small A.D. 1888.
parcels.

28. All the costs charges and expenses of and attending the **Costs of Act.**
passing of this Act or incidental thereto shall be paid by the
Company.

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