



CHAPTER V.

An Act to authorise the Corporation of Cork to grant a guarantee in respect of a portion of the Share Capital of the Cork and Fermoy and Waterford and Wexford Railway Company and for other purposes. A.D. 1893.

[28th March 1893.]

WHEREAS by the Cork and Fermoy and Waterford and Wexford Railway Act 1890 (herein called "the Act of 1890") the Cork and Fermoy and Waterford and Wexford Railway Company (herein called "the Company") were incorporated for the purpose of making railways between Cork and Fermoy in the county of Cork and between Waterford and Wexford in the counties of Waterford, Kilkenny and Wexford and for other purposes:

And whereas by the Act of 1890 the Company were authorised to raise for the purpose of their undertaking a sum of eight hundred thousand pounds in shares and a sum of four hundred thousand pounds by borrowing:

And whereas the Company have not yet issued any part of the said share capital of eight hundred thousand pounds other than qualification shares taken by the directors nor any part of the said four hundred thousand pounds authorised to be borrowed:

And whereas it is expedient that the mayor, aldermen and burgesses of the city or borough of Cork (in this Act called "the Corporation") should be authorised to grant the guarantee hereinafter provided with respect to a portion of the said share capital and to appoint one director to represent them:

And whereas it is expedient that provision should be made for attaching the said guarantee to specific shares in the share capital of the Company to the extent and in the manner hereinafter defined:

And whereas it is expedient that the Company be authorised subject to the provisions of this Act to pay interest upon the amount paid up from time to time in respect of shares in their

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 VICT.]
Railway (Guarantee) Act, 1893.

A.D. 1893. capital raised for the purposes of Railway No. 11 and Railway No. 12 as by this Act provided:

And whereas an estimate has been prepared on behalf of the Company of the amount which will be required for the purpose of such payment of interest and such estimate amounts to twenty-two thousand five hundred pounds:

And whereas it is expedient to amend the Act of 1890 in divers particulars in manner hereinafter mentioned:

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 the same as follows:—

Short title.

1. This Act may be cited as the *Cork and Fermoy and Waterford and Wexford Railway (Guarantee) Act 1893* and this Act and the Act of 1890 may be cited as the *Cork and Fermoy and Waterford and Wexford Railway Acts 1890 and 1893*.

Interpretation as to general Acts.

2. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with the Act of 1890 and this Act have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Interpretation as to terms in this Act.

3. In this Act unless the context otherwise requires—

The expression "the city" means the city or borough of Cork as defined by the *Municipal Corporations (Ireland) Act 1840* or any Act amending the same;

The expression "the Corporation" means the mayor aldermen and burgesses of the city or borough of Cork acting by the council;

The expressions "the Cork and Fermoy section" and "the Waterford and Wexford section" mean the railways comprised in those sections of the undertaking respectively as specified in the Act of 1890;

The expression "Railway No. 11 and Railway No. 12" means the Railways No. 11 and No. 12 of the Cork and Fermoy section or any part thereof respectively;

The expression "the Cork railways" means the railways comprised in the Cork and Fermoy section other than Railway No. 11 and Railway No. 12;

The expression "net receipts" means the net receipts in any one financial year after deducting from the gross revenues arising

[56 VICT.] *Cork and Fermoy and Waterford and Wexford* [Ch. v.]
Railway (Guarantee) Act, 1893.

from the particular undertaking or railways referred to where the expression occurs the working and management expenses thereof and the moneys for the time being payable in respect of interest on any mortgage or debenture stock raised by the Company in respect of the particular undertaking or railways as the case may be. A.D. 1893.

4. The Company may at any time before any part of the share capital of eight hundred thousand pounds authorised by section 23 of the Act of 1890 is issued other than qualification shares taken by the directors in lieu of raising the whole of the share capital of eight hundred thousand pounds authorised by section 23 of the Act of 1890 as one capital for the purposes of the undertaking of the Company resolve and determine that the undertaking of the Company shall be divided into and constituted as three separate undertakings as follows:— Share capital how to be issued.

(a.) Railway No. 11 and Railway No. 12;

(b.) The Cork railways; and

(c.) The Waterford and Wexford section;

and that the capital for the purposes of such separate undertakings shall be raised as separate capitals of the Company applicable to each of the separate undertakings only respectively and in the event of the Company so determining the Company may apportion the said capital of eight hundred thousand pounds as separate capitals of the said separate undertakings as follows:—

(a.) The sum of three hundred and fifty thousand pounds for the purposes of Railway No. 11 and Railway No. 12 (in this Act called "Railway No. 11 and Railway No. 12 capital");

(b.) The sum of one hundred and five thousand pounds for the purposes of the Cork railways (in this Act called "the Cork railways' capital"); and

(c.) The sum of three hundred and forty-five thousand pounds for the purposes of the Waterford and Wexford section (in this Act called "Waterford and Wexford section capital");

And the Company may issue a part of Railway No. 11 and Railway No. 12 capital not exceeding the sum of fifty thousand pounds with the guarantee of the city attached thereto and under the conditions authorised by this Act with reference to such guaranteed shares (in this Act called guaranteed shares) and such guarantee shall attach to such shares only and the holders of such guaranteed shares shall be entitled to the benefit of the said guarantee accordingly to the exclusion of all other persons whether shareholders in or creditors of the Company or any of the separate undertakings of the Company or otherwise howsoever and the terms

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 VICT.]
Railway (Guarantee) Act, 1893.

A.D. 1893. — and conditions on which such guaranteed shares are issued shall be stated shortly in the certificates relating thereto.

Provisions as to separate undertakings and capitals.

5. If the Company exercise the power conferred by this Act of constituting their undertaking separate undertakings with separate capitals then notwithstanding anything contained in the Act of 1890 the following provisions shall apply to such separate undertakings and separate capitals:—

- (1.) The separate capital of each separate undertaking shall be applied only to the purposes of that undertaking to which capital is properly applicable and for which it was raised and not to those of any other undertaking;
- (2.) As between the separate undertakings the expenses of maintaining and working each separate undertaking shall be borne and paid by the Company out of the revenue of that undertaking solely and the Company shall manage work and maintain the separate undertakings fairly as betwixt each other and as regards the expenses thereof;
- (3.) Shares in each separate capital shall (subject in the case of Railway No. 11 and Railway No. 12 capital to the provisions of this Act) be entitled to dividends only out of the net receipts of the separate undertaking applicable for dividends and the certificates of such shares shall distinctly denote that such shares are entitled to dividends only out of those net receipts and in the case of guaranteed shares to the benefit of the said guarantee;
- (4.) It shall not be lawful for the holders of shares in any of the separate capitals of the Company to interfere with the expenditure of the separate capital of any other of the said separate undertakings or in any other matter affecting such other capitals or undertakings exclusively;
- (5.) Shares in any of the said separate capitals shall not confer on holders thereof any right of voting or interference at any meeting of the Company on the affairs of the Company not relating to matters affecting such separate undertaking except for the election of directors and in any matters affecting the said shareholders respectively for which matters such shareholders shall have the same right of voting as the shareholders in the general capital of the Company would have had if the capital of the Company had been raised as one capital.

Application of revenues.

6. If the Company exercise the power conferred by this Act of constituting their undertaking separate undertakings with separate capitals the Company shall as between the separate undertakings

apply the revenue arising from each separate undertaking in each year as follows:— A.D. 1893.

- (1.) In payment of any rentcharges for land comprised in such separate undertaking;
- (2.) In payment of the proportion of the expenses properly attributable to the maintaining and working of such separate undertaking;
- (3.) In payment of the interest on all mortgages or debenture stock granted or issued by the Company on or in respect of such separate undertaking;
- (4.) In payment of dividends upon so much thereof as may be from time to time paid up on the separate capital of such separate undertaking subject in the case of Railway No. 11 and Railway No. 12 capital to the provisions of this Act and the Company shall carry any balance to the credit of the revenue account of such separate undertaking for the ensuing year.

7. If the Company exercise the power conferred by this Act of constituting their undertaking separate undertakings with separate capitals then if any difference shall arise between the Company and any of the holders of shares in the separate capitals or between holders of shares in such separate capitals with respect to the management and working of the separate undertakings or any of them or with respect to the tolls rates and charges to be demanded and taking on the separate undertakings or the appropriation as between the separate undertakings of such tolls rates and charges or otherwise in relation thereto whereby the holders of such shares respectively deem themselves to be injuriously affected such difference shall be settled by an arbitrator to be appointed by the Board of Trade on the application either of the Company or such holders of shares in the said separate capitals or any of them and such arbitrator shall have full power to settle and determine any such difference and to order the Company to do or to abstain from doing all such acts matters and things as he shall think fit and to make such order with respect to the costs of such arbitration as he shall think just. Arbitration.

8. If the Company exercise the power conferred by this Act of constituting their undertaking separate undertakings with separate capitals then for the purpose of the guarantee authorised by this Act by the city in respect of Railway No. 11 and Railway No. 12 and for ascertaining the amount of money expended on the construction and the working expenses of Railway No. 11 and Railway No. 12 the Cork railways and the Waterford and Wexford section and the net receipts arising therefrom respectively the Company to keep separate accounts as regards separate undertakings.

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 VICT.]
Railway (Guarantee) Act, 1893.

A.D. 1893. Company shall keep separate and distinct accounts of the moneys raised for and expended on Railway No. 11 and Railway No. 12 the Cork railways and the Waterford and Wexford section respectively as the case may require and of their receipts credits payments working expenses mortgages debenture stock and liabilities on account thereof respectively.

Borrowing
powers
how to be
exercised.

9. The Company in case they exercise the power conferred by this Act of constituting their undertaking separate undertakings with separate capitals may exercise the borrowing powers conferred on them by section 27 of the Act of 1890 in manner following The Company may from time to time in respect of Railway No. 11 and Railway No. 12 capital of three hundred and fifty thousand pounds borrow on mortgage of Railway No. 11 and Railway No. 12 undertaking any sum not exceeding in the whole one hundred and seventy-five thousand pounds and the Company may also from time to time in respect of the Cork railways capital of one hundred and five thousand pounds borrow on mortgage of the Cork railways undertaking any sum not exceeding in the whole fifty-two thousand five hundred pounds and the Company may also from time to time in respect of the Waterford and Wexford section capital of three hundred and forty-five thousand pounds borrow on mortgage of such section any sum not exceeding in the whole one hundred and seventy-two thousand five hundred pounds and of the said sums of one hundred and seventy-five thousand pounds and one hundred and seventy-two thousand five hundred pounds the Company may in the first instance borrow a sum of one hundred thousand pounds in respect of two hundred thousand pounds of Railway No. 11 and Railway No. 12 capital or of Waterford and Wexford section capital as the case may be and when that sum has been borrowed may borrow further sums of twenty-five thousand pounds in respect of each further fifty thousand pounds of the remaining share capitals of the said two separate undertakings and in the case of any fractional part of fifty thousand pounds of such respective capitals remaining after such borrowings may borrow in respect of such fractional part any sum not exceeding in amount one-half thereof respectively Provided always that no part of any such sums shall be borrowed until the whole of the portion of the share capital in respect of which each such sum is authorised to be borrowed is issued and accepted and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that the whole of such portion of such share capital in respect of which it is proposed to

borrow has been issued and accepted and that not less than one-fifth part of the amount of each separate share in such portion of share capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such portion of such share capital was issued and accepted 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 or certificates as the case may be that the proof aforesaid has been given which shall be sufficient evidence thereof.

A.D. 1893.

10. Section 28 of the Act of 1890 is hereby repealed and in lieu thereof the following provisions shall have effect The mortgagees of the undertaking and of Railway No. 11 and Railway No. 12 undertaking the Cork railways undertaking and of the Waterford and Wexford section undertaking as the case may be may respectively enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver of the undertaking comprised in their mortgage 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 thousand pounds in the whole.

For appointment of a receiver.

11. The following provisions shall apply to the creation and issue of debenture stock The Company may subject to the provisions of Part III. of the Companies Clauses Act 1863 create and issue debenture stock instead of and to the same amount as the whole or any part of the money, which they are hereinbefore or by the Act of 1890 authorised to raise on mortgage and such debenture stock shall be charged on the undertaking on which the corresponding mortgages would have been charged but notwithstanding anything in the Companies Clauses Act 1863 contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under the Act of 1890 as amended by this Act or under any subsequent Act and charged on the same undertaking shall as regards each class of debenture stock or mortgages chargeable on the undertaking or on Railway No. 11 and Railway No. 12 undertaking or on the Cork railways undertaking or on the Waterford and Wexford section undertaking as the case may be and subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of

Debenture stock.

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 Vict.]
Railway (Guarantee) Act, 1893.

A.D. 1893.

Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Mortgages and debenture stock charged on separate undertakings.

12. All mortgages or debenture stock to be granted or issued by the Company in respect of the separate capital of any of the said separate undertakings as aforesaid shall be a charge exclusively upon the separate undertaking in respect of which such mortgages or debenture stock are issued and shall not comprise or affect any other undertaking of the Company and the mortgages from time to time granted by the Company in respect of any of the said separate capitals shall on the face thereof distinctly denote that each such mortgage is a mortgage only upon the particular separate undertaking.

Number and appointment of directors.

13. Section 33 of the Act of 1890 (number of directors) is hereby amended and in addition to the number of directors elected for the time being by the Company as provided by the Act of 1890 one director of the Company may be nominated by the Corporation according to the provisions in that behalf hereinafter contained whilst and so long as the guarantee to be paid by the city as provided by this Act shall be in force. Provided always that the chairman of the Company shall always be one of the directors chosen or elected by the Company under the Act of 1890 as amended by this Act.

Sections 34 and 36 of the Act of 1890 explained.

14. Section 34 and section 36 of the Act of 1890 shall be read and construed as applying exclusively to the persons named chosen or elected under the Act of 1890 as the first directors of the Company and to the directors elected for the time being by the Company and shall not apply to the director to be nominated under the provisions of this Act by the Corporation and the qualification in section 34 of the said Act mentioned shall be the aggregate amount of fifty shares in the capital of the Company whether it be raised as one capital or as separate capitals.

Nomination of director by the Corporation.

15. The following provisions shall apply to the nomination of one director of the Company by the Corporation:—

- (1.) It shall not be necessary for any person nominated by the Corporation to be a shareholder of the Company;
- (2.) The Corporation may at any time after the issue of guaranteed shares as by this Act provided by notice in writing addressed to the secretary of the Company nominate one person to be a director of the Company;
- (3.) The Corporation may at any time by notice in writing addressed to the secretary of the Company recall the nomination of the director nominated by them and thereupon such person

[56 VICT.] *Cork and Fermoy and Waterford and Weaford* [Ch. v.]
Railway (Guarantee) Act, 1893.

whose nomination is recalled shall cease to be a director and the Corporation may fill up the vacancy arising from the recall resignation death or otherwise of the director so nominated by them by nominating another person to act as director;

A.D. 1893.

(4.) Any director so nominated may at any time resign by giving a notice in writing to that effect addressed to the Corporation;

(5.) Every nomination of a director made by the Corporation shall be notified in writing under the hand of the town clerk of Cork and shall be delivered to the secretary of the Company to be kept with the records of the Company.

16. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the appointment and rotation of directors of the Company shall not apply to the director nominated by the Corporation under the authority of this Act.

As to director nominated by Corporation.

17. The exercise by the directors of any of their powers and authorities shall not be dependent on the director authorised to be nominated by the Corporation being in office nor shall any Act of the directors be invalidated by reason of any informality in the nomination of a director by the Corporation or by reason of the Corporation failing to nominate a director as aforesaid.

As to exercise of powers of directors.

18. For a period of forty-five years from and after the opening for the conveyance of passengers of Railway No. 11 and Railway No. 12 in order to secure payment of a dividend at the rate of four pounds per centum per annum on the sum of fifty thousand pounds being the share capital authorised by this Act to be raised by guaranteed shares for the purpose of Railway No. 11 and Railway No. 12 or on so much thereof as shall have been from time to time paid up the city shall be assessed to the extent and in manner in this section set forth (that is to say) If the net receipts in any year after such opening arising from Railway No. 11 and Railway No. 12 separate undertaking and available for dividend on share capital shall not amount to the sum of ten thousand pounds being the amount required to pay a dividend at the rate of four pounds per centum per annum on a sum of two hundred and fifty thousand pounds portion of Railway No. 11 and Railway No. 12 capital then the sum required to make good the insufficiency (if any) of such part of such net receipts as bears to the whole of such net receipts the same ratio as the amount of guaranteed shares then issued bears to the whole amount then issued of Railway No. 11 and Railway No. 12 share capital not exceeding the said amount of two hundred and fifty thousand pounds to pay the sum of two thousand pounds or other the sum for the time being required to pay a dividend at the said rate on

City to contribute after opening of Railway No. 11 and Railway No. 12.

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 VICT.]
Railway (Guarantee) Act, 1893.

A.D. 1893.

the said sum of fifty thousand pounds authorised to be raised by guaranteed shares or on so much as shall have been from time to time paid up or in the case of a total failure of net receipts then the whole of the sum so required to pay such dividend shall be levied off the city in manner in this Act set forth Provided always that the sum to be contributed by the city shall not exceed in any one financial year the sum of two thousand pounds and shall be paid only in respect of the said guaranteed shares Provided also that from and after such opening in the event of the said net receipts in any year amounting to not more than the sum of ten thousand pounds then such part of such net receipts (not exceeding a sum sufficient to provide a dividend at the rate of four pounds per centum per annum on the amount of the guaranteed shares then issued) as bears to the whole of such net receipts the same ratio as the amount of guaranteed shares then issued bears to the whole amount then issued of Railway No. 11 and Railway No. 12 share capital not exceeding the said amount of two hundred and fifty thousand pounds and no more shall be first applied to the payment of such dividend on the said sum of fifty thousand pounds or so much thereof as shall have been paid up and to no other purpose and in the event of the said net receipts in any year amounting to more than ten thousand pounds then part of such net receipts not exceeding a sum sufficient to provide a dividend of four pounds per centum per annum on the amount of the guaranteed shares then issued shall be first applied to such and no other purpose Provided further that nothing herein contained shall be held or construed to attach any preference to any portion of the share capital applicable to Railway No. 11 and Railway No. 12 over any other portion of that capital save as regards the said guaranteed shares as hereinbefore set forth And at the termination of the said period of forty-five years the guaranteed shares shall become part of the ordinary share capital of the Railway No. 11 and Railway No. 12 undertaking Provided lastly that if the Great Southern and Western Railway Company shall at any time hereafter purchase or take on lease Railway No. 11 or Railway No. 12 or in case the Great Southern and Western Railway Company shall in any other way obtain the control or management of the said railways or either of them so as to secure a monopoly of the traffic between Cork and Fermoy the said guarantee by the Corporation shall thereupon absolutely cease and determine.

For ascertain-
ing amounts
to be paid
by the city.

19. For the purpose of ascertaining the sums which the city shall pay as by this Act provided and for the purpose of ascertaining the net receipts arising from Railway No. 11 and Railway No. 12 after the opening of the same and for other the purposes in this

A.D. 1893.

enactment mentioned the Board of Trade shall at the request of the Company and the Corporation or either of them appoint one person to act as arbitrator and the Board of Trade shall from time to time either continue in office the arbitrator so appointed or appoint a person in his place and supply the place of such arbitrator dying or resigning or refusing or failing or becoming incapacitated to act and such arbitrator shall from time to time ascertain the amount for the time being paid up in respect of capital raised by means of guaranteed shares for Railway No. 11 and Railway No. 12 and shall also from time to time after the opening for conveyance of passengers of Railway No. 11 and Railway No. 12 ascertain and determine the amount of the net receipts therefrom in each half year and also any other matter which to him may appear necessary to inquire into and determine in order to ascertain the sum which may be applicable to the payment of the said dividend as hereinbefore provided and shall assess and determine the amount (if any) of the half-yearly sums to be paid by the city and the arbitrator within two months of the receipt by him of the accounts relating to Railway No. 11 and Railway No. 12 as in this Act provided shall set forth the several matters so ascertained and determined by him in a certificate in writing under his hand and every such certificate shall be in all respects final and binding on the city and from and immediately after delivery of any such certificate to the town clerk of the city as by this Act directed the city shall become liable for the payment of such half-yearly sums as shall be specified in every such certificate and a copy of every such certificate shall be delivered to the Company and the Company shall immediately thereafter pay to such arbitrator his costs and expenses and remuneration for his trouble in regard thereto as may be agreed upon or in default of agreement as the Board of Trade shall order and direct.

20. For the purpose of ascertaining the amounts for the time being paid up in respect of capital raised by means of guaranteed shares and of ascertaining the net receipts (if any) from Railway No. 11 and Railway No. 12 applicable to the payment of such dividend as aforesaid the Company shall from time to time on or before the first day of May and the first day of November in every year make out and deliver to the said arbitrator an account showing the amount for the time being paid up in respect of capital raised by means of guaranteed shares and after the opening for conveyance of passengers of Railway No. 11 and Railway No. 12 full true and distinct and separate accounts of all the receipts of every nature and kind for the then preceding half-year ending the 31st day of December and the 30th day of June in each year arising in any

Accounts to be rendered to the arbitrator.

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 Vict.]
Railway (Guarantee) Act, 1893.

A.D. 1893. — manner from Railway No. 11 and Railway No. 12 and of the expenditure thereof which accounts the said arbitrator shall and he is 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 arbitrator from time to time produce the same to such arbitrator for examination and such arbitrator may if he think fit employ an actuary or accountant to assist him in such examination from time to time at the cost and expense of the Company and the Company shall keep proper and correct books of account to show the receipts expenses and profits of Railway No. 11 and Railway No. 12 to which books of account the said arbitrator shall have at all reasonable times access and from which he may at all times take extracts and the said arbitrator shall adjust and balance the said accounts and as to all matters relating to the said accounts or what shall be considered for the purposes of this Act as gross receipts from traffic or net receipts from traffic his decision shall in all respects be final and conclusive.

Provision
for defraying
sums to be
paid by the
Corporation.

21. The arbitrator shall from time to time deliver the certificates prepared by him relating to the contribution (if any) of the city or a copy thereof to the town clerk of the city who shall forthwith lay the same before the Corporation and it shall be lawful for the Corporation and they are hereby authorised and required from time to time either to make assess and levy on the city a rate for the purpose of defraying any sums so to be paid as aforesaid by the Corporation to the Company or if they think fit the Corporation may for such purpose include the said sums in the schedule of the applications with reference to the rate for general purposes under the Cork Improvement Act 1852 or any Act or Acts amending the same after the said schedule has been signed by the Clerk of the Crown and laid before the council of the city as provided by section 46 of the said Act and the said sums shall thereupon be deemed in all respects (except as to the application thereof) part of the amount to be raised by the rate for general purposes and shall be levied therewith accordingly Provided that in the event of the Corporation deciding to make assess and levy a rate as aforesaid all rights powers and duties now vested in or exercisable by or imposed on the Corporation in respect of the said rate for general purposes under the Cork Improvement Act 1852 or any Act or Acts amending the same (except as to the application thereof) shall be incorporated with this Act and shall be deemed to apply for enabling the

[56 VICT.] *Cork and Fermoy and Waterford and Wexford* [Ch. v.]
Railway (Guarantee) Act, 1893.

Corporation from time to time to make assess and levy in respect of all lands and hereditaments or premises situated within the city a rate for the purposes aforesaid in the same manner as if such rate had been authorised to be levied by them under the said Act or Acts and all the clauses and provisions of the said Acts mutatis mutandis shall apply to such rate and such rate may if the Corporation think fit be collected with the said rate for general purposes and the sums so raised whether as part of the rate for general purposes or otherwise shall be paid by the Corporation to the treasurer of the Company or in such other manner as the Company shall direct. A.D. 1893.

22. The defeasance of every bond of a collector of rates within the city for the purpose of the city contribution (if any) under this Act to be hereafter given or executed by way of security for duly collecting and paying public money shall contain a condition for his duly collecting and paying to the treasurer of the city forthwith all such money as he shall from time to time be authorised to levy under this Act and such bonds shall be subject to all provisions now applicable to bonds given or executed by collectors of city rates. Conditions of bond by collectors of city rates.

23. The Corporation shall also include in the said sums so to be levied such sum as shall be requisite for remuneration to their collectors for the collection of the rate or sums to be levied by them under the provisions of this Act. Remuneration of collectors.

24. When the person occupying any lands hereditaments or premises in the city shall be liable to pay a rent in respect of the same he may deduct from such rent one-half of the sum which he shall have paid as rate under the provisions of this Act in respect of each pound of the net annual value whether such rent shall be greater or less than such net annual value and so in proportion for any less sum than a pound not exceeding the aforesaid poundage or rate payable by him under the provisions of this Act Provided always that no deduction shall be made from the tithe rentcharge or other composition in lieu of tithes for or on account of any such rate. Tenants to deduct half the rate from the rent.

25. When any person to whom rent shall be payable in respect of any hereditaments in the city shall also pay a rent in respect of the same he shall be entitled to deduct from the rent so paid by him a sum bearing such a proportion to the amount of rate deducted under the provisions of this Act from the rent payable to him as the rent paid by him bears to the rent payable to him not exceeding the half of the said rate payable by him. Sub-lessors to make proportionate reductions from superior landlord's rents.

A.D. 1893.

Receipt for
rate to be
taken in
discharge.

26. In all cases a receipt for the rate to be levied under the authority of this Act in respect of any lands hereditaments or premises within the city 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 rate for which such receipt shall be given. Provided always that in case the amount required to be levied as the contribution of the city under the provisions of this Act shall be included in the rate for general purposes and not raised by special rate then a certificate of the proportion of the rate applicable to the guarantee shall be given by the Corporation collector and shall have the same effect as if it was a receipt for a rate. Provided also that no deduction on account of any payment of rate 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 such hereditaments by ejectment for non-payment 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 hereditaments by ejectment as effectually as if the entire gale or quarterly or other payment of rent out of which such deduction is hereby allowed had remained wholly due or unpaid. Provided also that no deduction 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.

Power to
the Com-
pany to pay
interest on
share capital
of Railway
No. 11 and
Railway
No. 12
during con-
struction.

27. Notwithstanding anything in the Act of 1890 or this Act or in the Companies Clauses Consolidation Act 1845 contained it shall be lawful for the Company in the event of Railway No. 11 and Railway No. 12 being constituted a separate undertaking out of any moneys by the Act of 1890 as amended by this Act authorised to be raised for that undertaking to pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares allotted to or held by him in the capital of such separate undertaking from the respective times of such payments until the expiration of the time limited by the Act of 1890 for the completion of the works comprised in such separate undertaking or for such less period as the directors may determine subject always to the conditions hereinafter stated (that is to say) :—

- (a.) Such interest shall not begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two-thirds at least of the separate share capital as authorised by this Act for Railway No. 11 and Railway No. 12 has been actually issued and accepted and is held by shareholders who or whose executors administrators successors or assigns are legally liable for the same ;
- (b.) Such interest shall not accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear ;
- (c.) The aggregate amount to be so paid for interest shall not exceed twenty-two thousand five hundred pounds in respect of the share capital issued for Railway No. 11 and Railway No. 12 and shall not be deemed to be capital within the meaning of the section of this Act the marginal note of which is "Borrowing powers how to be exercised" ;
- (d.) Notice that the Company have power to pay out of capital interest shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares for the said railways and in every certificate of such shares ;
- (e.) The half-yearly accounts of the Company shall show the amount on which and the rate at which interest has been paid in pursuance of this section :

A.D. 1893.

Save as hereinbefore set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by the Act of 1890 as amended by this Act authorised 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 such 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.

28. The Company may notwithstanding that they constitute their undertaking as separate undertakings in pursuance of the power of this Act demand and take the tolls rates and charges authorised by the Act of 1890 as amended by this Act.

Provision as to tolls rates and charges.

29. Notwithstanding anything contained in the Act of 1890 the maximum rates and charges which the Company shall be entitled to charge and make in respect of merchandise traffic on the railways of the Company shall except as hereinafter provided be the rates and charges specified in the schedule annexed to the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892 as if the Company had been specially included

Maximum rates and charges on merchandise to be taken by the Company.

[Ch. v.] *Cork and Fermoy and Waterford and Wexford* [56 VICT.]
Railway (Guarantee) Act, 1893.

A. D. 1893. — by name amongst the railway companies named in the Order confirmed by the said last-mentioned Act and section 81 of the Act of 1890 requiring the Company to submit a revised schedule of maximum rates and charges to the Board of Trade shall be and the same is hereby repealed Provided always that in calculating the distance over which any merchandise is conveyed on the Railways Nos. 10 and 11 of the Cork and Fermoy section of the undertaking as specified in the Act of 1890 and for all purposes of estimating rates and charges in respect of merchandise so conveyed (other than merchandise conveyed only on the said railways or either of them and not on any other part of the undertaking) the said Railways Nos. 10 and 11 or either of them or any part thereof respectively are to be calculated as six miles.

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

30. The Company shall not out of any money by the Act of 1890 as amended 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.

Provision as
to general
Railway
Acts.

31. Nothing in this Act contained shall exempt the Company or any of the undertakings of the Company 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 authorised for small parcels.

Costs of
Act.

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

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