



No. (Spring Application) 1963

**THE WATERFORD HARBOUR COMMISSIONERS
(ACQUISITION OF PROPERTY) BILL, 1963**

As amended in Joint Committee

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MEMORANDUM OF AGREEMENT



THE WATERFORD HARBOUR COMMISSIONERS
(ACQUISITION OF PROPERTY) BILL, 1963

BILL

entitled

AN ACT TO AMEND THE WATERFORD AND LIMERICK 5
RAILWAY ACT, 1878, AND SECTION 35 OF THE
WATERFORD HARBOUR ACT, 1919, TO PROVIDE FOR
THE VALIDATION OF AN AGREEMENT AND
MATTERS CONNECTED WITH THE MATTERS 10
AFORESAID.

Preamble.

WHEREAS by section 4 of the Waterford and Limerick Railway
Act, 1878 the Waterford and Limerick Railway Company was
authorised to erect a wharf at Waterford and by section 6 of the
same Act the said wharf was deemed to be part of the undertaking
and property of the said Company; 15

AND WHEREAS by section 7 (a) of the same Act it was provided
that on the completion of the said wharf the south eastern
portion thereof as defined in said section 7 was to be used by the
Company and the public jointly and subject to the user of the
Company was to be under the jurisdiction and control and manage- 20
ment of the Waterford Corporation, free from toll to the Com-
pany, to the same extent as the other public quays and streets
in the Borough of Waterford and under paragraph (c) of the same
section it was further provided that the Company was to keep and
repair so much of the roadway or surface of the said wharf as lay 25
between the lines of rails laid down thereon and the Waterford
Corporation was to maintain and keep in repair the remainder of
the south eastern portion of the said wharf and to light the same;

AND WHEREAS access to the said wharf which is afforded by a
thoroughfare called Salvation Lane, portion of which is carried by 30
a bridge over the railway line, is jointly owned by C6ras Iompair
6ireann and the Fishguard and Rosslare Railways and Harbours
Company;

AND WHEREAS the said wharf has since the erection thereof
been used by the Waterford Harbour Commissioners in connection 35
with the loading and unloading of ships in the Port of Waterford;

AND WHEREAS the south eastern portion of the said wharf
which is of wooden construction is in bad repair and requires to be
taken down and a modern wharf erected thereon;

AND WHEREAS C6ras Iompair 6ireann as successors to the 40
Waterford and Limerick Railway Company, and Waterford Cor-
poration agree that said south eastern portion of the said wharf
should be owned, managed and controlled by the Waterford
Harbour Commissioners as the Port Authority and that both
should be relieved of their statutory obligations under section 7 of 45
the Waterford and Limerick Railway Act, 1878 and that C6ras
Iompair 6ireann should be authorised to transfer to the Waterford

Harbour Commissioners their estate and interest in the said south eastern portion of the said wharf and that Córas Iompair Éireann and the Fishguard and Rosslare Railways and Harbours Company should be authorised to transfer to the Waterford Corporation the said thoroughfare known as Salvation Lane;

AND WHEREAS it was provided by section 35 (1) (b) of the Waterford Harbour Act, 1919 that the Waterford Harbour Commissioners should make a yearly contribution to the Waterford Corporation not exceeding £150 in any one year towards the cost of maintenance by the Corporation of the said south eastern portion of the said wharf and it was further provided under subsection 2 thereof that if the amount of the said yearly contribution was not agreed that it should be fixed by arbitration in default of agreement;

AND WHEREAS the Waterford Harbour Commissioners and the Waterford Corporation have agreed that upon the passing of this Act the said yearly contribution under said section 35 should cease to be payable and that the Harbour Commissioners should be discharged from all obligation to pay any arrears of yearly contributions which then remain due;

AND WHEREAS Córas Iompair Éireann in the year 1947 erected a new wharf on portion of the said wharf or quay so authorised by section 4 of the said Waterford and Limerick Railway Act, 1878 and the Waterford Harbour Commissioners contributed a sum of £25,000 towards the cost of the said new wharf;

AND WHEREAS the said new wharf is now one of the main wharfs in the Port of Waterford for the loading and unloading of ships and free access thereto by the public at all times was provided under an Agreement made at the time between Córas Iompair Éireann and the Waterford Harbour Commissioners;

AND WHEREAS Córas Iompair Éireann have agreed to sell to the Waterford Harbour Commissioners the said new wharf with the equipment thereon for the sum of £22,000 and under the terms of the sale it was provided that certain rights over the said new wharf should be reserved for Córas Iompair Éireann in connection with the maintenance of its railway tracks on the said new wharf and the loading and discharge of wagons thereon and also in connection with the railway siding at the rere of the said new wharf and same are contained in the Agreement set forth in the Schedule to the Bill;

AND WHEREAS Córas Iompair Éireann has also agreed with the Waterford Harbour Commissioners in order to give more storage accommodation for the transfer by Córas Iompair Éireann to the Commissioners of a small portion of ground at the rere of the said south eastern portion of the said wharf which said portion is not now required by Córas Iompair Éireann for the purpose of its undertaking;

AND WHEREAS the Waterford Harbour Commissioners have decided as soon as practicable after the passing of this Act to take down the said south eastern portion of the said wharf and to erect a new wharf thereon and to bring out same in line with the adjoining new wharf and it was further agreed between the Waterford Harbour Commissioners and Córas Iompair Éireann that certain rights would be reserved in favour of Córas Iompair Éireann for the laying of railway tracks on the said wharf when erected and these rights are contained in the said agreement set forth in the Schedule to the Bill;

AND WHEREAS the acquisition by the Waterford Harbour Commissioners of said south eastern portion of the said wharf, the new wharf, and the said portion of ground from C6ras Iompair 6ireann and the relief from the said yearly contribution is necessary and essential to the development and expansion of the Port of 5 Waterford and to ensure the effective working thereof;

AND WHEREAS it is expedient that C6ras Iompair 6ireann and the Fishguard and Rosslare Railways and Harbour Company should be empowered to transfer the said properties to the Waterford Harbour Commissioners and the aforesaid thoroughfare known 10 as Salvation Lane to the Waterford Corporation and that C6ras Iompair 6ireann and the Waterford Corporation should be relieved of their statutory obligations under section 7 of the Waterford and Limerick Railway Act, 1878 and that the said Agreement set forth in the Schedule to the Bill should be declared valid and carried 15 into full force and effect;

AND WHEREAS the purposes of this Act cannot be effected without the authority of the Oireachtas.

BE IT THEREFORE ENACTED BY THE OIREACHTAS 20 AS FOLLOWS :—

Interpretation.

1.—In this Act—

the expression “the Corporation” shall mean The Mayor, Aldermen and Burgesses of Waterford;

the expression “The Commissioners” shall mean The Waterford Harbour Commissioners; 25

the expression “the Board” shall mean C6ras Iompair 6ireann;

the expression “the Fishguard Company” shall mean The Fishguard and Rosslare Railways and Harbours Company;

the expression “the Act of 1878” shall mean The Waterford and Limerick Railway Act, 1878; 30

the expression “the south-eastern portion of the North Wharf” shall mean the south-eastern portion of the quay erected by the Waterford and Limerick Railway Company in pursuance of the powers in that behalf conferred by section 4 (b) of the Act of 1878 measuring 60 feet in width and 520 feet or thereabouts in 35 length extending eastwards from the downstream end of the wooden wharf the property of the Board which adjoins the new wharf.

Repeal of part of the Waterford and Limerick Railway Act, 1878.

2.—(a) The Act of 1878 is hereby repealed in so far as it applies to the south-eastern portion of the North 40 Wharf and the powers, duties and authority of the Corporation, the Commissioners, and the Board in relation thereto.

(b) The Board and the Fishguard Company shall be relieved of all statutory obligations with respect to the 45 property assigned and conveyed in pursuance of the agreement referred to at section 4 hereof.

Termination of payment under section 35 of the Waterford Harbour Act, 1919.

3.—The yearly contribution payable by the Commissioners to the Corporation under section 35 of the Waterford Harbour Act, 1919 towards the cost of maintenance of the south-eastern portion 50 of the North Wharf shall cease to be payable upon the passing of this Act and the Commissioners are hereby discharged from all obligations to pay any arrears of such contributions which then remain due.

4.—The Agreement already executed by the Corporation, the Commissioners, the Board and the Fishguard Company, the terms of which (without the map annexed) are set forth in the Schedule hereto, is hereby declared to be a valid and enforceable agreement, the execution of which shall be deemed to have been within the powers of the said respective parties thereto and the conveyances and transfers therein provided for shall be completed within three months from the date of the passing of this Act.

Validation of Agreement.

5.—If any difference shall arise between the Commissioners and the Board in regard to the provision made by the Commissioners for the exercise of any rights given to the Board by the Agreement mentioned in section 4, or in regard to the manner in which or the conditions under which such a right is to be exercised, whether such difference arises from a failure of the Commissioners to agree to or approve of a proposal by the Board or in any other way, then and in every such case, unless the Commissioners and the Board concur in the appointment of a single arbitrator, the matter in difference shall be referred to two arbitrators, one appointed by the Commissioners and one by the Board.

Appointment of Arbitrators.

6.—All costs charges and expenses of and incident to the preparing, applying for obtaining and passing of this Act shall be borne by the Board and the Commissioners in equal shares.

Expenses.

7.—Nothing in this Act shall prejudice or affect the rights of the State to any parts of the bed or foreshore of the River Suir authorised by this Act and the Schedule thereto to be transferred by the Board to the Commissioners.

Rights of State not to be prejudiced.

8.—This Act may be cited as the Waterford Harbour Commissioners (Acquisition of Property) Act, 1964.

Short title.

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SCHEDULE.

MEMORANDUM OF AGREEMENT made the 13th day of November, 1962, BETWEEN CORAS IOMPAIR EIREANN (hereinafter called "the Board") of the First part THE FISHGUARD AND ROSSLARE RAILWAYS AND HARBOURS COMPANY (hereinafter called "the Fishguard Company") of the Second part THE WATERFORD HARBOUR COMMISSIONERS (hereinafter called "the Commissioners") of the Third part and THE MAYOR ALDERMEN AND BURGESSES OF WATERFORD (hereinafter called "the Corporation") of the Fourth part WHEREBY IT IS AGREED AS FOLLOWS:—

Section 4.

1. (a) The Board and the Fishguard Company shall grant and convey to the Corporation in fee simple free from incumbrances ALL THAT AND THOSE that portion of the roadway known as Salvation Lane Waterford 35 feet in width or thereabouts connecting the south-eastern portion of the North Wharf with that portion of the public road leading from Waterford to New Ross excluding the bridge carrying the said roadway over the railway line (jointly owned by the Board and the Fishguard Company) and coloured blue on the map annexed hereto.

(b) The Corporation shall maintain and keep in good order repair and condition the road surface of the roadway of the said bridge over the said railway line referred to at clause (a) hereof.

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- (c) For all purposes connected with the maintenance or renewal of the said bridge the Board may at all reasonable times on giving notice to the Commissioners and the Corporation enter upon the properties conveyed to the Commissioners and the Corporation and may if 5 necessary break up the road surface mentioned at clause (b) hereof and may also for the purpose of such maintenance or renewal close the bridge to traffic wholly or partially for such period as may reasonably be necessary for such purpose and the Board shall restore the 10 said road surface so broken up.

2. The Board shall :—

- (i) Assign free from incumbrances to the Commissioners

(a) ALL THAT AND THOSE that piece of land being part of the foreshore and bed of the river Suir 15 below high water mark with reinforced concrete wharf known as the New Wharf erected thereon held under Lease dated the 5th day of May 1948— the Commissioners to the Board for the term of 98 years from 1st April 1947 at the yearly rent of £1 20 and coloured grey on the map annexed hereto.

- (ii) Grant and Convey in fee simple free from incumbrances to the Commissioners

(b) ALL THAT AND THOSE that piece of land below and above high water mark situate at the 25 shore side of the piece of land referred to in clause 2 (i) (a) hereof with reinforced concrete wharf known as the New Wharf erected on part of same and coloured yellow and red on the map annexed hereto. 30

(c) ALL THAT AND THOSE that piece of land consisting of part of the foreshore and bed of the River Suir below high water mark and that piece of land above high water mark at the shore side thereof 90 feet in length and 60 feet in width 35 with timber wharf on the river side portion of same extending eastwards from the downstream end of the New Wharf and connecting with the upstream end of the south eastern portion of the North Wharf and coloured pink on the map 40 annexed hereto.

(d) ALL THAT AND THOSE that piece of land consisting of part of the foreshore and bed of the River Suir below high water mark and that piece of land above high water mark at the shore side thereof 45 with timber wharf on the river side portion of same known as the south eastern portion of the North Wharf and coloured brown on the map annexed hereto.

(e) ALL THAT AND THOSE that piece of land 300 50 feet in length and 6 feet in width (except for a small portion at the western end which is 15 feet in width) situate at the North side of the wall dividing the south-eastern portion of the North Wharf from the premises of the Board and coloured 55 green on the map annexed hereto.

(f) The said respective pieces of land referred to in this clause shall be assigned and conveyed by the Board subject to the rents (if any) and the covenants and conditions in the respective Deeds under which 60 same are now respectively held by the Board.

(iii) Transfer absolutely to the Commissioners free from incumbrances

- (a) four cranes with all equipment used in connection therewith including spare parts and buckets;
- 5 (b) weighbridge including spare parts for same;
- (c) the dockers' shelters, hut, rope store and toilets.

3. The Board shall have at all times the right to keep and to have exclusive use of the railway siding on the land at the rear of and adjoining the New Wharf and coloured red on the Map annexed hereto for all purposes connected with the Board's undertaking including the right to load and unload goods and merchandise into and from road vehicles at the said siding and which said vehicles shall be at all times permitted free and unimpeded access to the said siding for the purpose aforesaid.

15 4. The Commissioners shall permit the Board for so long as the Board may require to have the use of the lines of track on the said New Wharf (hereinafter called the lines of wagon tracks) for the movement of the Board's railway rolling stock, together with the existing turnouts, switches, crossovers, and all apparatus and
20 appliances for operating the same.

5. Subject as hereinafter provided the Board shall at all times hereafter maintain the said lines of wagon tracks and the said turnouts, switches, crossovers, apparatus, and appliances, used in operating the said lines of wagon tracks in good repair and working
25 order.

6. The Board shall not at any time hereafter use the said lines of wagon tracks in such a way as to unreasonably impede other traffic on the said New Wharf.

7. The Commissioners shall ensure that sufficient space is available at all times on the said New Wharf to enable a shunting tractor to operate efficiently.

8. The total laden weight of the wagons at any one time using the lines of wagon tracks on the New Wharf shall not exceed the carrying capacity of the New Wharf, and the Board shall be liable
35 to make good to the Commissioners any damage sustained by the Commissioners as a result of the use by the Board of wagons of a total laden weight which exceeds such capacity.

9. The Commissioners shall at all times permit the Board's employees to enter on the said New Wharf for the purpose of
40 repairing the said lines of wagon tracks and also for the operation of shunting engines and railway stock over same.

10. (a) The Board shall have the right, if and when the south-eastern portion of the North Wharf and the 90 foot portion referred to in clause 2 (ii) (c) of this agreement is reconstructed and extended by the Commissioners, to lay lines of tracks for the use of the Board's railway rolling stock (hereinafter called "tracks") with suitable turnouts, switches, crossovers, and all apparatus, and appliances for operating the same on such conditions as may be agreed upon between the Commissioners and the Board subject to the plans for such lines of tracks being agreed to and approved by the Commissioners prior to the commencement of the work of construction of same.

- (b) If and when the Commissioners intend to carry out the reconstruction and extension hereinbefore referred to they shall carry out the work in such manner and according to such design as will render it feasible and practicable for the Board to lay tracks thereon and operate the same, and the Commissioners will consult with the Board for this purpose before commencing any work of reconstruction or extension. 5
- (c) Subject as hereinafter provided the Board shall at all times thereafter maintain the tracks and all such turnouts, switches, crossovers, apparatus, and appliances used in operating same in good repair and working order. 10
- (d) The provisions of clauses 5 to 9 inclusive of this agreement in respect of the New Wharf and the turnouts, switches, crossovers, apparatus and appliances therein mentioned shall also apply to the south-eastern portion of the North Wharf and the 90 foot portion when reconstructed and extended by the Commissioners and to such tracks, turnouts, switches, crossovers, apparatus, and appliances, as may be laid or placed thereon in pursuance of the foregoing sub-clauses of this clause. 15 20

11. The Commissioners shall maintain all the property when conveyed to them in pursuance of this agreement in such good order, repair and condition as will enable the Board to enjoy the full use and benefit of the rights granted to it by this agreement. 25

12. The Board may at any time by notice in writing served upon the Commissioners inform the Commissioners that the Board no longer requires to use all or any of the lines of tracks referred to in clauses 4 and 10 hereof and upon service of such notice the right conferred on the Board by these presents and any deed or document executed in pursuance hereof to use the lines of tracks mentioned in such notice and the turnouts, switches, crossovers, apparatus, and appliances, used in connection with the said lines and the obligation imposed on the Board by these presents or any such deed or document to maintain the same shall wholly cease and determine, without prejudice, however to the continued liability of the Board for any then existing breach by the Board of its said obligation of maintenance or to any right of action against the Board in respect of any breach of the said obligation which has then already accrued to the Commissioners. 30 35 40

13. The Commissioners shall pay to the Board the sum of £22,000 on the completion of the conveyances and transfers as set out herein and the handing over of possession to the Corporation and the Commissioners respectively of the premises described in clauses 1 and 2 hereof with the said cranes, weighbridge, equipment, huts, toilets, rope store and shelters. 45

14. Of the said sum of £22,000 the sum of £15,000 shall be deemed to be the price of the said moveable chattels transferable by delivery and the sum of £7,000 to be the price of the leasehold and freehold properties the subject of these presents. 50

IN WITNESS whereof the parties aforesaid have caused their respective seals to be affixed hereto the day and the year first herein WRITTEN.

PRESENT when the Official Seal of the Board was affixed hereto :— SEAL 55

E. CASSIDY,
Member of the Board.

M. J. HAYES, 60
Secretary.
Authorised Officer.

PRESENT when the Common Seal
of the Fishguard Company was
affixed hereto :—

SEAL

5 J. CURTIS-WELCH,
Secretary No. 329.

PRESENT when the Common Seal
of the Commissioners was affixed
hereto :—

SEAL

10 PETER J. O'CONNOR,
Solicitor,
Waterford.

THOMAS SHIPSEY,
Secretary and General Manager.

PRESENT when the Common Seal
of the Corporation was affixed
hereto :—

SEAL

15 MARY GERAGHTY,
Clerk Typist,
Waterford Corporation.

JOHN GRIFFIN, Mayor.

20 TIMOTHY O'SULLIVAN,
Clerical Officer,
Waterford Corporation.

S. Ó GIOLLÁIN,
City Manager and Town Clerk.

THE WATERFORD HARBOUR COMMISSIONERS (ACQUISITION OF PROPERTY) BILL, 1963.

BILL

(as amended in Joint Committee)

entitled

An Act to amend the Waterford and Limerick Railway Act, 1878, and section 35 of the Waterford Harbour Act, 1919, to provide for the validation of an agreement and matters connected with the matters aforesaid.

JOHN R. PEART & SON,

Parliamentary Agents,

38 St. Stephen's Green,
Dublin.