CHAPTER cxiii.

An Act to divide the separate undertaking authorised by the Donegal Railway Act 1896 into two separate undertakings to extend the time for the purchase of lands and completion of works by that Act authorised to provide for the granting of rebates in favour of the railway from Donegal to Ballyshannon to release the county council of the county of Donegal from their liability under the West Donegal Light Railway Order and for other purposes. [30th July 1900.]

A.D. 1900.

WHEREAS by the Donegal Railway Act 1892 the undertakings of the Finn Valley Railway Company and of the West Donegal Railway Company were amalgamated and incorporated by the name of the Donegal Railway Company (in this Act referred to as "the Company"):

And whereas by the Donegal Railway Act 1893 the Company were authorised to extend their railway to Strabane:

And whereas by the Donegal Railway Act 1896 (in this Act called "the Act of 1896") the Company were authorised to extend their railway from (*a*) Strabane to Londonderry and (*b*) from Donegal to Ballyshannon:

And whereas by the Act of 1896 the Company were authorised to raise an additional capital of one hundred and forty thousand pounds by the creation and issue of ten thousand ordinary shares of ten pounds each and four thousand preference shares of ten pounds each and the Company were authorised to borrow on mortgage an additional sum of seventy thousand pounds:

And whereas by the Act of 1896 it was further provided that the railways and works by that Act authorised should form a separate undertaking apart from the rest of the undertaking of the Company and that the capital under that Act should form a separate capital:

A.D. 1900.

And whereas it is expedient to divide the said separate undertaking into two separate undertakings to consist of—

(A) Railway No. 1 authorised by the Act of 1896 being a railway from Strabane to Londonderry;

(B) Railway No. 2 authorised by the Act of 1896 being a railway from Donegal to Ballyshannon:

And whereas it is expedient to provide for the granting of rebates and allowances by the Company arising on the Company's main line of railway between Strabane and Donegal and on the railway of the separate undertaking between Strabane and Londonderry and to apply such rebates and allowances towards the payment of dividend on the capital of the separate undertaking between Donegal and Ballyshannon:

And whereas it is expedient to revive and entend the powers granted to the Company by the Act of 1896 for the compulsory purchase of lands for the purposes of Railway No. 2 from Donegal to Ballyshannon and to extend the time for the completion of that railway and the works in connexion therewith:

And whereas it is expedient that the Company should be authorised to pay interest during the construction of works on any capital expended on Railway No. 2 between Donegal and Ballyshannon:

And whereas it is expedient to confer on the Company such other powers as are in this Act contained:

And whereas the objects 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 Donegal Railway Act 1900.

Incorporation of general Acts.

2. The following parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say):—

Part II. (relating to extension of time) of the Railways Clauses Act 1863:

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters namely:—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;
The forfeiture of shares for nonpayment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money;
The conversion of the borrowed money into capital;
The consolidation of the shares into stock; and
The provision to be made for affording access to the special Act by all parties interested:

And Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

Interpretation.

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

Revival and extension of time for purchase of lands for Railway No. 2 authorised by Act of 1896.

4. The powers granted to the Company by the Act of 1896 for the compulsory purchase of lands for the purposes of Railway No. 2 authorised by that Act are hereby revived and extended and continued and may be exercised by the Company for a period of three years from the seventh day of August one thousand eight hundred and ninety-nine and on the expiration of that period those powers shall cease.

Extending time for completion of Railway No. 2 authorised by Act of 1896.

5. The powers granted to the Company by the Act of 1896 for the completion of Railway No. 2 and works in connexion therewith by that Act authorised are hereby extended and continued and may be exercised for a period of three years from the seventh day of August one thousand nine hundred and one And sections 15 and 16 of the Act of 1896 shall be read as if the period limited and extended by this Act had been the period limited by that Act for the completion of the railways and works by that Act authorised If the said railway and works shall not be completed within the period by this Act extended and limited for their completion then on the expiration of that period the powers of making and completing the same and otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Separate undertaking under Act of 1896 divided into two separate undertakings.

6. The separate undertaking authorised by the Act of 1896 shall form two separate undertakings distinct and apart from the rest of the undertaking of the Company and distinct and apart from each other Such separate undertakings shall consist as follows:—

(A) The railway from Strabane to Londonderry;
(B) The railway from Donegal to Ballyshannon;

A.D. 1900.

And the additional capital under the Act of 1896 with the further capital under this Act shall form two separate capitals and no mortgage debenture stock or other liability of the Company in respect of the general undertaking shall be a charge upon or in any way affect such separate undertakings or the receipts and revenue arising from traffic passing over the same and no mortgage debenture stock or other liability of one of the separate undertakings shall be a charge upon or in any way affect the other separate undertaking or the receipts and revenue arising from traffic passing over the same.

Application of additional capital under Act of 1896 to separate undertakings.

7. The additional capital of one hundred and forty thousand pounds which the Company may raise under the Act of 1896 by the creation and issue of ordinary and preference shares shall be divided into two separate capitals and shall be applied by the Company in the proportions following (that is to say):—

They shall in respect of the separate undertaking from Strabane to Londonderry apply any sum not exceeding in the whole the sum of ninety-four thousand pounds;

They shall in respect of the separate undertaking from Donegal to Ballyshannon apply any sum not exceeding in the whole the sum of forty-six thousand pounds.

Application of money borrowed under Act of 1896 to separate undertakings.

8. The sum of seventy thousand pounds which the Company may borrow or raise by the creation and issue of debenture stock under the Act of 1896 shall be divided and shall be applied by the Company to the two separate undertakings in the proportions following (that is to say):—

They shall in respect of the separate undertaking from Strabane to Londonderry apply the sum of forty-six thousand pounds;

They shall in respect of the separate undertaking from Donegal to Ballyshannon apply the sum of twenty-four thousand pounds.

Power to raise additional capital in respect of separate undertaking from Donegal to Ballyshannon.

9. In addition to the said sum of forty-six thousand pounds the Company may for the purposes of the separate undertaking from Donegal to Ballyshannon subject to the provisions of Part II. of the Companies Clauses Act 1863 raise by the creation and issue of three thousand four hundred ordinary shares of ten pounds each an additional capital not exceeding in the whole the sum of thirty-four thousand pounds.

Power to issue further amount of debenture stock in respect of separate

10. In addition to the said sum of twenty-four thousand pounds the Company may for the purposes of the separate undertaking from Donegal to Ballyshannon subject to the provisions of Part III. of the Companies Clauses Act 1863 raise by the creation and issue of debenture stock bearing interest at the rate of four pounds per

centum per annum any further sum not exceeding in the whole seventeen thousand pounds but notwithstanding anything contained in Part III. of the Companies Clauses Act 1863 the interest of all debenture stock at any time created and issued by the Company under this or any subsequent Act in respect of the separate undertaking from Donegal to Ballyshannon shall rank pari passu against such separate undertaking Notice of the effect of this enactment shall be endorsed on all such certificates of debenture stock.

undertaking from Donegal to Ballyshannon.

11. The accounts of revenue receipts of the Company and of each separate undertaking shall be made up half yearly on the first day of May and the first day of November in each year and the following rebates shall be granted and paid by the Company to the account of the separate undertaking from Donegal to Ballyshannon (that is to say) :—

As to rebates to be granted in respect of traffic on main line and undertaking from Strabane to Londonderry.

(A) Out of the gross receipts of the Company's main line of railway from Strabane to Donegal in excess of the sum of seventeen thousand pounds per annum the Company shall grant and pay to the separate undertaking from Donegal to Ballyshannon a rebate not exceeding twenty per centum on such excess receipts sufficient to make up a dividend or interest at the rate of four per centum on the share capital and debenture stock of the said separate undertaking until such a time as the receipts arising from such separate undertaking are sufficient to pay dividend and interest at the said rate of four per centum on such shares or stock :

(B) Out of the gross receipts of the separate undertaking from Strabane to Londonderry in excess of the sum of ten thousand pounds per annum such separate undertaking shall grant and pay a rebate to the separate undertaking from Donegal to Ballyshannon not exceeding twenty per centum sufficient to make up a dividend or interest at the rate of four per centum on the share capital and debenture stock of the separate undertaking from Donegal to Ballyshannon until such a time as the receipts arising from such separate undertaking are sufficient to pay dividend and interest at the rate of four per centum on such shares or stock.

12. The separate undertakings shall as regards tolls rates and charges be deemed to be part of the undertaking of the Company.

Separate undertakings as regards tolls &c. to be part of Company's undertaking.

13. Whereas it is expedient to provide for the release of the county council of Donegal (hereinafter called "the county council") from any liability in respect of the guarantee by the county of the dividends on the guaranteed shares amounting to eight thousand three hundred pounds the remaining portion of the

Release of county council of Donegal from guarantee.

A.D. 1900.

guaranteed share capital of nineteen thousand pounds created by the Company under the powers of the West Donegal Light Railway Order 1886 And whereas in order to provide for such release it is expedient that the Company should issue to the holders of such shares debenture stock in exchange therefor and that they should be authorised to create and issue such an amount of debenture stock as may be necessary for the purpose of effecting such exchange Therefore the Company may under the authority of this Act and without further or other authority for the purpose of such redemption create and issue subject to the provisions of Part III. of the Companies Clauses Act 1863 such an amount of debenture stock as shall be necessary to redeem the said shares and the certificates of the said shares shall within three months from the passing of this Act be delivered by the holders thereof to the Company and the Company shall in exchange for such shares issue to the holders thereof debenture stock to such amount as may be agreed upon and such certificates shall on such exchange be cancelled.

Trustees may hold debenture stock in lieu of guaranteed shares.

14. Subject as hereinafter provided trustees executors and administrators being holders of existing guaranteed shares may and shall (notwithstanding any provision to the contrary in any will or other instrument under which they may be acting) accept the debenture stock to be issued in exchange for such guaranteed shares under the provisions of this Act and may and shall hold dispose of or otherwise deal with the same in all respects as they might have held disposed of or otherwise dealt with the guaranteed shares in exchange for which such debenture stock was issued.

Substituted stock to be held on same trusts as stock for which it is substituted.

15. All debenture stock of the Company issued to the holders of guaranteed shares under the powers of this Act shall be held subject to the same trusts and obligations as those upon or to which the guaranteed shares for which such stock of the Company is substituted were immediately before the date of the passing of this Act held or subject and so as to give effect to and not revoke any deed or other instrument or any testamentary or other disposition of or affecting any such shares and every such deed or other instrument or testamentary disposition affecting such shares shall take effect with reference to the whole or a proportionate part (as the case may be) of the debenture stock so substituted therefor.

Provisions as to lost certificates.

16. If the certificate for any guaranteed share be lost or destroyed then upon proof thereof and upon an indemnity being given against any claim in respect of such lost or destroyed certificate to the satisfaction of the directors of the Company they shall deliver to the person entitled thereto a certificate for the debenture stock to which he would be entitled under this Act as if such first-mentioned

certificate had not been lost or destroyed but had been delivered to the Company in terms of this Act.

Confirming agreement with Donegal County Council for release of Company from liability to repay money advanced to them by county council.

17. The agreement set forth in the Second Schedule to this Act bearing date the second day of March one thousand nine hundred and made between the county council of the county of Donegal of the one part and the Company of the other part for the release of the Company from any liability for repayment by the Company to the said county council of any moneys already advanced to the Company by the said county council is hereby confirmed and made binding on the parties thereto.

County council of county Donegal and certain baronies not to be exempted from liability to maintain and work railway described in West Donegal Railway Order 1886.

18. Nothing in this Act contained shall exempt the county council of the county of Donegal and the parts of the baronies of Tyrhugh and Banagh mentioned in the West Donegal Railway Order 1886 from their liability to maintain and work at the cost of the said parts of the said baronies as therein provided the light railway described in the said Order in case of default on the part of the Company.

Working and management of separate undertakings.

19. The directors of the Company shall have the working and management of the affairs of the separate undertakings and they and any committees appointed by them for the purposes of such undertakings shall subject to the provisions of this Act have and exercise all such and the same powers with respect thereto as they have or might have or exercise with respect to the rest of the undertaking of the Company.

Prescribing how terms to be settled.

20. Whereas the resolutions set forth in the First Schedule to this Act as applicable to the separate undertaking under the Act of 1896 have been submitted to and approved of by the Railway and Canal Commissioners after notice to the Treasury and such resolutions have also been approved of by proprietors voting at an extraordinary general meeting of the Company convened with notice of the object such proprietors being entitled to vote at such meeting and holding at least three fourths of the paid-up capital represented at such meeting And whereas such meeting was held on the eleventh day of March one thousand eight hundred and ninety-seven And whereas it is expedient that the terms and conditions set forth in such resolutions be made applicable to the separate undertakings authorised by this Act Therefore the said resolutions shall have effect in respect of the said separate undertakings Provided always that the provisions as to the keeping of separate accounts for the separate undertaking under the Act of 1896 referred to in the said resolutions shall apply to each of the separate undertakings authorised by this Act and the said resolutions shall be read and have effect as if the words "each of the separate

A.D. 1900.

undertakings authorised by this Act" had been used therein instead of the words "separate undertaking" as authorised by the Act of 1896.

Votes of holders of separate capital.

21. Unless it be otherwise provided by the resolution creating the same the holders of shares in the separate capitals under this Act shall not be entitled to vote at meetings of the Company except in relation to matters concerning the separate undertakings including the election of directors of the Company.

Separate undertakings to be worked in an efficient manner.

22. After the opening of each such separate undertaking for the public conveyance of passengers the Company shall work the same and convey traffic thereon in a proper manner and so as fairly to accommodate and develop the traffic over the same In case any difference shall arise between the Company and any of the holders of either of the separate capitals with respect to the working or insufficient working by the Company of the undertaking to which such capital relates or otherwise in relation thereto whereby the holders of such separate capital 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 such holders of the separate capital or of the Company 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.

Power to pay interest out of capital during construction.

23. Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised in respect of the separate undertaking from Donegal to Ballyshannon 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 held by him from the respective times of such payments until the expiration of the time limited for the completion of the said separate undertaking or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say):—

(A) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two-thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same:

(B) No such interest shall 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 four thousand five hundred pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid:

(D) Notice that the Company have power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares:

(E) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section.

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

24. The Company shall not out of any money 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.

25. Nothing in this Act contained shall exempt the Company or the railways of the Company from the provisions of any general Act relating to railways or the better or 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 for small parcels authorised to be taken by the Company.

Expenses of Act.

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

A.D. 1900.

SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

RESOLUTIONS APPROVED BY RAILWAY AND CANAL COMMISSIONERS AS TO WORKING OF SEPARATE UNDERTAKING.

(1) That the Company shall for ever after the openings for public traffic of the respective railways from Strabane to Londonderry and from Donegal to Ballyshannon which together form the separate undertaking work the same as provided by the Donegal Railway Act 1896 and maintain the same and all works and conveniences connected therewith in good working order and condition and manage the same as if it formed part of their general undertaking.

(2) That a separate account shall be kept by the Company of the gross receipts of every nature and kind arising from the railways from Strabane to Londonderry and from Donegal to Ballyshannon forming together the said separate undertaking and such gross receipts shall be paid and applied in the priorities and manner following:—

Firstly The Company shall receive the actual cost price for working and maintaining in good working order and condition the said separate undertaking such actual cost not to exceed a percentage of the gross receipts of the separate undertaking in any half-year equal to the percentage of the gross receipts which the working and maintenance shall have cost on the Company's railway from Strabane to Donegal in the same half-year provided that the cost of such working and maintenance shall in no case be less than three pounds ten shillings per mile per week:

Secondly The residue of the gross receipts shall be the net earnings of the separate undertaking and shall be applied in payment of the interest and dividends on the separate capital of that undertaking.

(3) That the payments to be made in respect of the use of the separate undertaking for the general traffic of the Company shall after allowing to the Company any terminals arising on their other railways and to the separate undertaking any terminals arising on that undertaking be a division of the rates and fares received from the general traffic of the Company between the Company and the separate undertaking in accordance with the respective mileage proportions of the distance over which the general traffic of the Company was carried on the Company's other railway and on the separate undertaking respectively.

(4) That the engines carriages and wagons belonging to the Company and those supplied to the Company by the Treasury for the use of the Donegal to Killybegs and Stranorlar to Glenties Extensions of the Company and the

engines carriages and wagons supplied for the use of the separate undertaking shall when passing over the railway of the separate undertaking and over the other railways of the Company for the purpose of the through traffic be allowed for and paid as if they passed over the railways of separate companies and for the purpose of this resolution the rules of the Irish Railway Clearing House for the time being in force as to the use of rolling stock shall apply.

(5) That the Company will at all times keep true and perfect accounts of all the traffic to which these resolutions relate and of the fares and rates received or receivable by them in respect of the same and as regards all receipts in respect of through fares and rates for traffic conveyed partly on the separate undertaking and partly on the other railways of the Company for showing the due mileage proportion thereof attributable to the separate undertaking and to the other railways of the Company.

SECOND SCHEDULE.

AGREEMENT made the second day of March one thousand nine hundred between the County Council of Donegal (hereinafter called "the Council") of the one part and the Donegal Railway Company (hereinafter called "the Company") of the other part.

Whereas by the West Donegal Light Railway Order 1886 (hereinafter called "the Order") a presentment of the grand jury of the county of Donegal set out in the First Schedule thereto was confirmed so far as it related to the charge to be defrayed by the parts of the baronies of Tyrhugh and Banagh in said presentment mentioned for the payment of a dividend at the rate of 5*l.* per cent. per annum upon the paid-up capital of the undertaking therein described (being a railway from Druminin to a point near the town of Donegal) as limited by the Order to the sum of 19,000*l.* And whereas 17,500*l.* portion of the said sum of 19,000*l.* guaranteed share capital was afterwards fully paid up the said undertaking was completed for public traffic with the money so raised and the minimum gross receipts of the said undertaking are now in pursuance of a condition contained in the said presentment a sum of 400*l.* per annum And whereas in pursuance of the provisions of the Donegal Railway (Redemption of Shares) Order 1898 the capital has by redemption of shares been reduced to a sum of 8,300*l.* and a contribution by the Treasury to the Council in respect of the loss on the guarantee has been extinguished And whereas the Council has come to an agreement with the Company subject to the approval of the guaranteed shareholders for the release of the Council from any further liability on foot of the guarantee upon the terms hereinafter appearing:

Now this agreement witnesseth that the Council and the Company do hereby for themselves and their respective successors and assigns covenant and agree with the other as follows:—

1st The charges to be defrayed by the parts of the baronies of Tyrhugh and Banagh in the county of Donegal in the said presentment mentioned

A.D. 1900.

for the payment of a dividend at the rate of 5*l.* per centum per annum upon the paid-up capital of the said undertaking shall be released and such charges shall cease and determine from and after the first day of November next after the passing of an Act of Parliament confirming or authorising this agreement or from and after the county guaranteed shareholders in the Company shall have agreed to surrender the guarantee of dividend hereinbefore mentioned whichever event shall last happen.

2nd No claim shall be made by the Council or by the county of Donegal against the Company for the repayment of any moneys which may have been paid or which may hereafter be paid by the grand jury of the county of Donegal or by the Council to the Company on foot of the said guarantee And the Council hereby releases the Company from any liability for repayments by the Company to the Council of any such moneys.

3rd This agreement is made subject to the county guaranteed shareholders in the Company agreeing to surrender the guarantee of dividend as aforesaid.

4th The Company will at their own expense use their best endeavour to obtain the sanction of Parliament to the terms of this agreement.

In witness whereof the Council and the Company have hereunto respectively set their common seal the day and year first herein written.

The common seal of the Donegal County Council affixed hereto in presence of

BERNARD McFADDEN
Secretary of County Council.

Seal of the County of Donegal County Council.

The common seal of the Donegal Railway Company affixed hereto in presence of

R. A. MACRORY.

Seal of Donegal Railway Company.

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