ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

****

Cap. xli.

An Act to amend the Acts relating to the *Dundalk and Enniskillen* Railway, and to extend the same from *Ballybay* to *Enniskillen.* [28th *May* 1852.]

WHEREAS by "The *Dundalk and Enniskillen* Railway Act, 1845," a Company was incorporated by the Name of the *Dundalk and Enniskillen* Railway Company, for the Purpose of effecting a Railway Communication between the Towns of *Dundalk* in the County of *Louth* and *Enniskillen* in the County of *Fermanagh*, with Two Branches therefrom: And whereas by the said Act the Company were restricted from constructing a Portion of the Line of Railway laid down on the Plans referred to in the said Act between a certain Point therein defined near the Town of *Clones* and *Enniskillen* aforesaid, which Portion of Line the *Newry and Enniskillen* Railway Company were alone authorized and required to make and construct: And whereas by the said Act, and upon the Condition therein set forth, the said Portion of Line of the *Newry and Enniskillen* Railway Company was when completed to vest in the Company thereby incorporated jointly with the said *Newry and Enniskillen* Railway Company, with a Right to the free Use of the same: And whereas the said *Newry and Enniskillen* Railway Company have failed to make and

8 & 9 Vict. c. 96.

construct the said Portion of Line: And whereas by "The *Dundalk and Enniskillen* Railway Act, 1847," the Capital of the said *Dundalk and Enniskillen* Railway Company was altered, and the said first-recited Act was in other respects amended: And whereas the said last-mentioned Company have made and opened for public Use so much of the Railway authorized by the said first-recited Act as lies between *Dundalk* aforesaid and the Town of *Castleblayney*, and by "The *Dundalk and Enniskillen* Railway Act, 1850," the Time limited for the Completion of the Line from *Castleblayney* aforesaid to the Town of *Ballybay* was extended for Three Years from the passing of the said last-mentioned Act: And whereas the Time limited for making the said Line between *Ballybay* and *Clones* aforesaid and also the said Branch Railways has expired: And whereas it is expedient that the said last-mentioned Company should be authorized to extend their Railway from *Ballybay* to *Enniskillen* aforesaid, and that the Period limited by the said last-mentioned Act for making and constructing the said Portion of Railway between *Castleblayney* and *Ballybay* should be extended: And whereas the Construction and Completion of the said Railway between *Castleblayney* and *Enniskillen* will contribute to the Advantage and Improvement of the County of *Fermanagh*, and will tend to lessen the Amount of Poor's Rates therein by affording increased Employment, and therefore it is expedient that such County should to the Extent after mentioned pay or guarantee the Payment of the Interest of any Monies borrowed to make and complete such last-mentioned Railway in the said County under the Provisions of this Act: And whereas the Grand Jury of the said County of *Fermanagh* have assented thereto: And whereas it is expedient that some of the Provisions of the said Acts should be altered and amended, but the same 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; (that is to say,)

10 & 11 Vict. c. 65.

13 & 14 Vict. c. 76.

8 & 9 Vict. cc. 16. 18. & 20. and 14 & 15 Vict. c. 70. incorporated with this Act.

I. That "The Companies Clauses Consolidation Act, 1845," with respect to the Distribution of the Capital of the Company into Shares, with respect to the Transfer or Transmission of Shares, with respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls, with respect to the Forfeiture of Shares for Non-payment of Calls, and with respect to the Consolidation of Shares into Stock, and with respect to the making of Dividends, and "The Lands Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation Act, 1845," and "The Railways Act (*Ireland*), 1851," shall be incorporated with and form Part of this Act, save as to such Provisions thereof as may be expressly altered by this Act.

Short Title.

II. That in citing this Act in other Acts of Parliament, and in legal Instruments, Proceedings at Law or in Equity, and all or any other Proceedings whatsoever, it shall be sufficient to use the Expression "The *Dundalk and Enniskillen* Railway Act, 1852."

Power to make Extension Line of Railway.

III. That it shall be lawful for the Company to make a Railway to commence by a Junction with the authorized Line of the Company at a Point in the Field numbered 29 on the Parliamentary Plan of the Townland of *Derrynaloobinagh* in the Parish of *Ballybay* in the said County of *Monaghan*, and to terminate at the Mail Coach Road in the Fairgreen in the Townland of *Tonystick* in the Borough and Parish of *Enniskillen* in the said County of *Fermanagh*.

Power to make Extension according to deposited Plans.

IV. Whereas a Plan and Section of the said Line of Railway showing the Line and Levels thereof, and also a Book of Reference to such Plan containing the Names of the Owners or reputed Owners and Lessees or reputed Lessees and of the Occupiers of the Lands to be taken for the Purposes of the said Line of Railway, have been deposited for public Inspection with the respective Clerks of the Peace of the Counties of *Monaghan* and *Fermanagh*: Be it enacted, That, subject to the Powers of Deviation in "The Railways Clauses Consolidation Act, 1845," contained, the said Railway shall be made in the Line or Course and upon the Lands delineated on the said Plans and described in the said Books of Reference, and according to the Levels defined on the said Sections, and, subject to the Provisions of the Acts incorporated herewith and this Act, it shall be lawful for the Company to enter upon, take, and use such of the said Lands as shall be necessary for the Purposes thereof.

As to crossing Roads on the Level.

V. That, subject to the Provisions in "The Railways Clauses Consolidation Act, 1845," contained, with respect to the crossing of Roads on the Level, it shall be lawful for the Company to carry and maintain the said Line of Railway by this Act authorized to be made across the Roads or Highways numbered as herein-after mentioned on the Plans deposited as aforesaid on the Level of the said Roads or Highways respectively; (that is to say,)

In the County of *Monaghan*.

Road numbered 23, in the Townland of *Lislynchahan*.
Road numbered 36, in the Townland of *Lismagonway*.
Roads numbered 30 and 31, in the Townland of *Killygragy*.
Road numbered 43, in the Townland of *Aghadrumkeen*.
Roads numbered 35 and 39, in the Townland of *Drumate*.
Roads numbered 67 and 72, in the Townland of *Feagh*.
Road numbered 59, in the Townland of *Drumshannon*.
Road numbered 23, in the Townland of *Guardhill*.

Road numbered 20, in the Townland of *Altartate Glebe*.
Road numbered 47, in the Townland of *Largy*.

County of *Fermanagh*.

Roads numbered 12 and 11, in the Townland of *Legmacaffry*.
Road numbered 3, in the Townland of *Kilready*.
Road numbered 1, in the Townland of *Lurganboy*.
Road numbered 6, in the Townland of *Aghagay*.
Road numbered 7, in the Townland of *Sallaghy*.
Road numbered 2, in the Townland of *Aghalurcher Glebe*.
Road numbered 4, in the Townland of *Castle Balfour Demesne*.
Road numbered 9, in the Townland of *Drumhaw*.
Road numbered 12, in the Townland of *Aghnas Kew*.
Road numbered 6, in the Townland of *Drumgoon*.
Road numbered 2, in the Townland of *Killashanbally*.
Road numbered 20, in the Townland of *Coollane*.
Road numbered 4, in the Townland of *Kilmore North*.
Roads numbered 1 and 3, in the Townland of *Leambrislin*.
Road numbered 6, in the Townland of *Ballyculas*.

Station or Lodge to be erected at the Points of crossing.

VI. That for the greater Convenience and Security of the Public the Company shall erect and permanently maintain either a Station or Lodge at the Points where the said Railway crosses the before-mentioned Roads on the Level; and the Company shall be subject to and shall abide by all such Rules and Regulations with regard to the crossing of such Roads on the Level, or with regard to the Speed at which Trains shall pass such Roads, as may from Time to Time be made by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations; and if the Company shall fail to erect or at all Times maintain any such Station or Lodge, or appoint a proper Person to watch or superintend the crossing at such Point or Station, or to observe or abide by any such Rule or Regulation as aforesaid, they shall for every such Offence be liable to a Penalty of Twenty Pounds, and also to a daily Penalty of Ten Pounds for every Day such Offence shall continue after such Penalty of Twenty Pounds shall have been incurred.

Board of Trade may require Bridges to be erected in lieu of level Crossings.

VII. That it shall be lawful for the Lords of the said Committee, if it shall appear to them to be necessary for the Public Safety, at any Time hereafter, to require the Company, within such Time as the said Lords of the Committee shall direct, and at the Expense of the Company, to carry any or either of the said Roads either over or under the said Railway by means of a Bridge or Arch in lieu of crossing the same on a Level, or to execute such other Works as under the Circumstances of the Case shall appear to the said Lords of the Committee best adapted for removing or diminishing the Danger

Danger arising from such level crossing; but where any such Road shall be so carried either under or over the Railway it shall not be necessary for the Company to erect or maintain any Station or Lodge at the Point where such Road may be crossed, or to appoint any Person to watch or superintend the Crossing thereof, nor shall they be liable to any of the aforesaid Penalties for Failure so to do.

As to Deposit of Plans with Clerks of Unions.

VIII. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that Certificates of any Omission, Mis-statement, or erroneous Description in certain Plans and Books of Reference therein referred to should be deposited with the Postmasters of the Post Towns in or nearest to the several Parishes in *Ireland* in which the Lands affected thereby should be situate; and it is also provided that certain Plans and Sections of such Alterations in the original Plans and Sections as shall have been approved by Parliament should also be deposited with such Postmasters, and be retained and produced by them for Inspection in manner therein mentioned: And whereas, in compliance with the present Standing Orders of both Houses of Parliament, the several Plans, Sections, and other Documents heretofore required to be deposited with the Postmaster of the Post Towns in *Ireland* are now deposited with the Clerks of the Unions instead of such Postmasters: Be it therefore enacted, That with reference to this Act, in all the Provisions of "The Railways Clauses Consolidation Act, 1845," relating to the Matters aforesaid, the Expression "Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*," or the Word "Postmaster," shall be read and construed as if the Expression "Clerks of the Unions within which such Parishes are included in *Ireland*," or the Words "Clerk of the Union," as the Case may be, had been used and inserted in such Act in lieu of the Expression "Postmaster of the Post Towns in or nearest to such Parishes in *Ireland*," or in lieu of the Word "Postmaster," as the Case may be.

Period for compulsory Purchase of Lands limited.

IX. That the Powers of the Company for the compulsory Purchase of Lands for the Purpose of making the Line of Railway by this Act authorized shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for Completion of Railway limited.

X. That after the Expiration of Five Years from the passing of this Act all the Powers thereby granted to the Company for making and maintaining the said Line of Railway by this Act authorized, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Railway as shall then be completed.

Lands for extraordinary Purposes.

XI. That it shall be lawful for the Company to purchase any Quantity of Land for extraordinary Purposes, not exceeding Thirty Acres,

Acres, in addition to the Lands which they are authorized to take for such Purposes under the Authority of the said first-recited Act.

New Line to be Part of Company's Undertaking.

XII. That the said Line of Railway by this Act authorized to be made, and the Works connected therewith, shall be deemed Part of the Undertaking of the Company; and the Capital of the Company, and other Monies authorized to be raised on Mortgage or otherwise, or levied by or for the Company, shall be and be deemed applicable to the Construction of the same Line of Railway, and may be charged upon the Property and Undertaking of the Company, in the same Manner as if the said Line of Railway had originally formed Part of the Undertaking of the Company: Provided always, that nothing herein contained shall have the Effect of making the Monies to be raised by Assignment of the annual Payments to be made by the County of *Fermanagh*, as herein-after mentioned, or any Part thereof, applicable, nor shall the same be applicable, to the Payment of the Costs or Expenses of constructing any Portion of the said Line of Railway, except so much thereof as shall be made in the said County of *Fermanagh*.

Company to take same Tolls as on Lineoriginal.

XIII. That it shall be lawful for the Company to demand and receive, in respect of the said Line of Railway by this Act authorized to be made, and of the Engines and Carriages employed thereon, any Tolls and Charges not exceeding the maximum Rates of Tolls and Charges authorized by the said first-recited Act.

Period for Completion of Works between Castleblayney and Ballybay.

XIV. That the Powers by "The *Dundalk and Enniskillen* Railway Act, 1850," granted to the Company for making and constructing the Portion of Railway between *Castleblayney* and *Ballybay* aforesaid, and the Works thereto belonging, shall be and the same are hereby further extended: Provided always, that the said Powers of making and constructing the said Portion of Railway shall, on the Expiration of Three Years from the passing of this Act, cease, except as to so much of the said Portion of Railway as shall be then completed.

Fermanagh Portion of Line to be commenced forthwith.

XV. That the said Portion of Railway in the County of *Fermanagh* shall be forthwith commenced as soon as the said Company shall have raised any Money by any Mortgage in which the said annual Payments shall be expressed to have been assigned as aforesaid, and that the making of the same Portion shall not be postponed to the Completion of the Portion of the said Railway between *Castleblayney* and *Enniskillen* as is situate in the County of *Monaghan*.

Power to borrow Money on the Security of the Fermanagh Guarantee.

XVI. That for securing the Repayment of any Monies which the Company may hereafter borrow under the Powers of the recited Acts and this Act, or any or either of them, with Interest, the Company may assign over to the Persons advancing such Monies the annual Payment

Payment to be made by the County of *Fermanagh* under the Provisions herein-after contained, in addition to their Undertaking and the future Calls upon their Shareholders; but such annual Payment shall not be or be deemed to be assigned in or by any Mortgage made by the Company, unless the Assignment thereof be in such Mortgage expressed and declared.

County of Fermanagh to pay Interest on Loan in certain Events.

XVII. That if any Monies shall be hereafter borrowed by the Company, under the Provisions of the said recited Acts and this Act or either of them, upon any Mortgage in which the said annual Payment shall be assigned as aforesaid, towards the making of any Part or Parts of the said Line of Railway in the said County of *Fermanagh* between *Castleblayney* and *Enniskillen*, then and in every such Case a Sum equal to the half-yearly Interest on the Money so borrowed and which shall remain due at a Rate not exceeding Four Pounds *per Centum per Annum* shall (subject as herein-after mentioned) be paid half-yearly to the Company by the County of *Fermanagh* aforesaid: Provided nevertheless, that the annual Sum so to be paid by the said County shall not exceed the Amount of Interest at the Rate herein-before mentioned upon a Sum not exceeding One hundred and twenty thousand Pounds: Provided also, that if after so much of the said Line of Railway between *Castleblayney* and *Enniskillen* as shall be made in the County of *Fermanagh*, or any Part thereof, shall have been opened, there shall be any Profit arising from such Portion of Railway in the County of *Fermanagh* in any Half Year (such Profit to be ascertained as herein-after mentioned), then the Amount thereof shall be deducted from the half-yearly Amount which would otherwise be payable by such County as aforesaid; and if such Profit shall equal or exceed the Amount of all the Interest upon Money borrowed by the Company, and paid for the Execution of Works in the said County of *Fermanagh*, then no such Payment shall be made by such County for such Half Year: Provided also, that if such Profit in any Half Year shall exceed the Amount of Interest payable by such County, then the Amount of such surplus Profit shall be deducted from the half-yearly Amount payable by such County for the next subsequent Half Year: Provided further, that no Liability to any of such Payments shall attach to the said County until the said Portion of the said Railway between *Castleblayney* and *Enniskillen* as is situate in the County of *Fermanagh* shall be completed and opened for public Traffic.

Appointment of Auditors of Company's Accounts.

XVIII. That when and so long as any Money shall remain due on any Mortgage in which the said annual Payments to be made by the County of *Fermanagh* shall be assigned under the Provisions of this Act, the Lords of Her Majesty's Privy Council for Trade and Plantations shall and they are hereby authorized and required from Time to Time

Time to appoint a fit and proper Person, and also the Grand Jury of the said County of *Fermanagh* and the said Railway Company shall each appoint One other fit and proper Person, which Three Persons shall be Auditors to audit the Accounts of the Company in reference to so much of the said Line of Railway between *Castleblayney* and *Enniskillen* as shall be made in the said County of *Fermanagh*, and to make Certificates in pursuance of the Directions herein-after contained; and it shall be lawful for the said Lords and for the said Company and Grand Jury respectively from Time to Time to revoke the Appointment of the Auditors appointed by them respectively, and such Auditors respectively from Time to Time to remove, and their Powers and Authorities to revoke, and any other Person in the Place of any Auditor displaced or dying to appoint, with the same Powers or Authorities; and the Company shall pay to each of the Auditors so appointed such a Sum for his Trouble in making such Audit and in relation thereto as the said Lords shall from Time to Time fix and determine.

Separate Accounts of Expenditure in Fermanagh to be kept.

XIX. That the Company shall keep separate Accounts of all Money borrowed by them upon any Mortgages in which the said annual Payment shall be expressed to be assigned, and of the Expenditure thereof, and of the Income and Profits arising from that Portion of the said Railway and Works which will be situate in the said County of *Fermanagh*, such Accounts to be at all reasonable Times open to the Inspection of the Auditors to be appointed as herein-after mentioned.

Company to render Accounts of Profits.

XX That for the Purpose of ascertaining the Amount of net Profits (if any) upon such Portion of the said Line of Railway between *Castleblayney* and *Enniskillen* as shall be made in the said County of *Fermanagh*, the said Company shall, when and as long as any Money shall remain due on any Mortgage in which the said annual Payments to be made by the said County of *Fermanagh* shall be assigned under the Provisions of this Act, within One Calendar Month after the Thirtieth Day of *June* and the Thirty-first Day of *December* in every Year, make out or cause to be made out and rendered to the said Auditors a full, true, distinct, and separate Account of all the Receipts and Expenditure for the then preceding Half Year, and relating to the said Portion of the said Line of Railway between *Castleblayney* and *Enniskillen* as shall be made in the said County of *Fermanagh*, which Account the said Auditors shall and they are hereby authorized and empowered to examine with the Documents and Vouchers evidencing the same (which Documents and Vouchers, and all Books, Papers, and Accounts in the Custody and Control of the Company relating to the Business of the Company in reference to the said Portion of the said Line in the said County of *Fermanagh*, shall, upon the Request of the said

said Auditors, be forthwith produced by the Company to such Auditors, who shall be at liberty to examine the same); and for the Purpose of judging of the Accuracy of such Account such Auditors shall and may examine all the Accounts of the Company in reference to the said Portion of the said Line in the said County of *Fermanagh*, which said Accounts and the Vouchers relating to the same the Company are hereby directed to keep and produce during such Time as aforesaid as the said Auditors shall direct, and such Auditors shall adjust and balance such Accounts, and as to all Matters relating to the said Accounts, or what shall be considered as Profit, their Decision shall in all respects be final and conclusive on all Parties.

Auditors to ascertain Payments made by Company and Amount of Profits.

XXI. That on the Completion of every half-yearly Audit such Auditors shall ascertain or determine whether the Company have by themselves or otherwise for the preceding Half Year made such half-yearly Payments as by virtue of the Security or Securities for any Money so borrowed as aforesaid the Company shall be liable to pay, and shall ascertain and determine the Amount (if any) of Profit which shall appear on such Account to have been made during such Half Year on the said Portion of the said Line of Railway in the said County of *Fermanagh*.

Auditors to certify Sums payable by County.

XXII. That after the said Portion of the said Line of Railway between *Casleblayney* and *Enniskillen* as is situate in the said County of *Fermanagh* shall have been completed and opened for public Traffic, and when and as often as such Auditors shall find that the said Company have made such Payments as aforesaid for the preceding Half Year, and not before, then they shall, by a Certificate under their Hands, certify the same, and also the Amount of Profit (if any) appearing on such Account as aforesaid, and deduct such Profit (if any) from the Amount of the said half-yearly Payments of Two Pounds *per Centum*, or such other and lesser Sum as aforesaid, to be paid by such County as aforesaid: Provided nevertheless, that when and so often as the Profit on any such Account as aforesaid shall equal or exceed the said half-yearly Payment of Two Pounds *per Centum*, or such other and lesser Sum as aforesaid, to be paid by such County, then such Auditors shall state the same in such Certificate, and that consequently for such Half Year no Payment is to be made in respect of such half-yearly Payments secured to be made by the said County, and every such Certificate shall be final and binding on all Parties: Provided also, that whenever in any Half Year the Amount of Profit shall not equal the Amount of Interest payable by such County, the said Auditors shall and they are hereby required to take into account the surplus Profit (if any) of the next preceding Half Year, and to deduct from the Amount to be paid by such County the Amount of

such surplus Profit, and shall state in the said Certificate the Amount of surplus Profit so deducted.

Provisions with respect to Profit and Loss Account.

XXIII. That in taking and keeping the aforesaid Account of Profit and Loss no Payment by the Company, nor any Receipts by the Company in respect of such half-yearly Payments of Two Pounds *per Centum*, or such other and lesser Sum as aforesaid, shall be taken into account as Profit or Loss, but the same shall solely contain the Amount of Income and Expenditure relating to the aforesaid Portion of the said Line of Railway between *Castleblayney* and *Enniskillen* as is situate in the said County of *Fermanagh*.

Auditors to deliver Certificate to Company.

XXIV. That the said Auditors shall, on the Request of the Company, and within One Calendar Month after the Date of every such Certificate, deliver the said Certificate and a Duplicate or Duplicates thereof to the Company.

Sums mentioned in Auditors Certificate to be presented by Grand Jury and paid by Treasurer.

XXV. That the Company shall from Time to Time deliver such Certificate, or such Duplicate thereof as aforesaid, to the Secretary of the Grand Jury of the County of *Fermanagh*, and the said Secretary of the Grand Jury shall lay such Certificate or Duplicate thereof before the Grand Jury of such County at the Assizes next after he shall have received the same; and it shall be lawful for such Grand Jury and they are hereby required, from Time to Time, and without Application to Presentment Sessions, to present the Sum mentioned in every such Certificate relating to such County to be raised and levied off such County, and the same shall be raised and levied accordingly together with and in like Manner and subject to like Provisions as other Monies presented by such Grand Jury at the same Assizes are raised and levied, and the Treasurer of such County, out of the First Monies collected and remaining in his Hands, after Repayment of Government Advances, Gaol Expenses, and Salaries of public Officers payable by him, shall pay the Sum so presented by the Grand Jury unto the Company, or in such other Manner as the Company shall direct; and if the Grand Jury of the said County shall fail to present the Sum or any Part thereof contained in any such Certificate relating to such County, the Treasurer of such County shall and he is hereby required to insert such Sum, or such omitted Part thereof, in his Warrant for raising the Monies presented at the same Assizes, as if such Sum had been duly presented by such Grand Jury to be raised in manner herein-before mentioned off such County as aforesaid, and the same shall be raised and levied off such County accordingly, as if the same had been so presented, and the said Treasurer shall pay over the Amount when by him received, as herein-before provided, as if such Money had been presented by such Grand Jury.

XXVI. That

In certain Events the County to be recompensed out of the Profits of the Undertaking.

XXVI. That if at any Time before the Expiration of Twenty-three Years from the passing of this Act it shall appear to the said Auditors that the net Profits of the Company derivable from the said Portion of the said Line of Railway between *Castleblayney* and *Enniskillen* as is situate in the said County of *Fermanagh* in any Year ending on the Thirty-first Day of *December* within Five Years from any Period at which any such Payment as aforesaid shall have been made shall have amounted to such a Sum as to leave a Surplus, after deducting a Sum sufficient to pay the Interest for that Year upon the existing Monies borrowed for constructing the said Portion of the said Line of Railway in the County of *Fermanagh*, and also after deducting a Sum sufficient for paying to the Shareholders a Dividend at the Rate of Four Pounds *per Centum per Annum* on the then paid-up Capital of the Company, the said Auditors shall and they are hereby required forthwith to certify such Fact by Writing under their Hands stating the Amount of any such Surplus to the Treasurer for the Time being of the said County, and thereupon the said Treasurer shall be entitled to receive from the Company the said Surplus to an Extent not exceeding the aggregate Amount of Payments made by the said County since the passing of this Act; and if any Payment shall have been made under the Provisions of this Act by the said County during the said Period of Twenty-three Years (but not otherwise), then after the Expiration of the said Period of Twenty-three Years, whenever it shall appear to the said Auditors that the net Profits of the Company derived from the said Portion of the said Line of Railway between *Castleblayney* and *Enniskillen* in any Year ending on the Thirty-first Day of *December* shall have amounted to such a Sum as to leave a Surplus after deducting Five thousand Pounds for the Use of the Company, the said Auditors shall and they are hereby required to certify such last-mentioned Fact by Writing under their Hands, stating the Amount of any such last-mentioned Surplus, to the Treasurer for the Time being of the said County, and thereupon the said Treasurer shall be entitled to receive from the Company such Surplus to an Extent not exceeding the Sum of Five hundred Pounds as a Rentcharge upon the Undertaking of the Company, and the said Treasurer shall apply the Sums so received by him in aid of the County Cess upon such County.

Auditors to deliver a Certificate to the Treasurer of County stating what Amount of the Surplus such Trea-

XXVII. That the Auditors shall, within One Month from the Time at which they shall have certified as aforesaid to the Treasurer of the said County, deliver to the said Treasurer a Certificate in Writing under their Hands stating what Amount of the said Surplus the said Treasurer is (by virtue of the last-mentioned Provision) entitled to receive, and the said Treasurer shall be entitled, on Demand, to receive from the Company the Amount mentioned in such Certificate, and

surer is entitled to receive.

and in default of Payment on Demand to recover the same, with full Costs of Suit, by Action in any Court of competent Jurisdiction; and in any such Action the Treasurer for the Time being of the said County shall be the nominal Plaintiff, and as such entitled to sue on behalf of the County, and no such Proceeding shall abate or be discontinued by reason of the Death, Removal, or Resignation of any such Treasurer, but shall continue and proceed in the Name of any Treasurer from Time to Time appointed in the Stead of any such Treasurer who may die, be removed from or resign his Office, upon entering a Suggestion for that Purpose, by Leave of the Court in which any such Proceeding may be pending.

No Payments to be made by the County after a certain Time.

XXVIII. That after the Expiration of Twenty-three Years from the passing of this Act no further Payment to the Company shall be made by the said County, and from and after the Expiration of that Period all the Powers of this Act which relate to the Payments to be made by and the Rates to be levied upon the said County shall for ever cease and determine.

Saving the Company's other Powers of borrowing.

XXIX. Provided always, That the foregoing Provisions shall not prejudice or diminish the Powers of the Company for borrowing Money on Mortgage according to the Form and in the Manner prescribed by the recited Acts or either of them, unless and until they shall have executed any Mortgages in which the said annual Payments of the County of *Fermanagh* shall be expressed to be assigned, and then only to the Extent of the Sums comprised in such Mortgages.

Forfeited Shares may be cancelled, with Consent of Proprietors.

XXX. That where any Share in the Company shall have been or shall be declared forfeited it shall be lawful for the Company, on confirming such Forfeiture, and with the Consent in Writing of the Person who at the Time of such Declaration of Forfeiture was the registered Proprietor thereof, to resolve and direct that the same, instead of being sold, shall be cancelled, and upon the passing of such Resolution such Share shall be *ipso facto* cancelled, and all Liabilities and Rights upon or in respect of such Share shall thenceforth be absolutely extinguished.

Forfeited Shares which cannot be sold may merge in the Company.

XXXI. That in all Cases where any Share shall have been or shall be declared forfeited, and such Forfeiture shall have been or shall be confirmed by a General Meeting of the Company, in accordance with the Provisions of "The Companies Clauses Consolidation Act, 1845," and Notice of such Forfeiture shall have been or shall be given by Advertisement in the *Dublin Gazette*, and in some Newspaper published or circulating in the County in which the principal Office or Place of Business of the Company is or shall be situate, the Directors of the Company shall, at the next General Meeting of the Company which

which shall be held after an Interval of at least Two Months after such Notice shall have been given as aforesaid (unless Payment of all Arrears of Calls, together with the Interest due thereon and the Expenses, be made by the registered Owner before such Meeting shall be held), declare the same to be merged in the general Capital Stock of the Company, and the same shall thenceforth merge accordingly, and the Proprietor of such Share shall from and after such Merger be precluded from all Right and Interest therein; but such Merger shall not affect or alter the Liability of the last Proprietor of any such Share to pay to the Company the Arrear of Calls and Interest due in respect of such Share at the Time of such Merger, or the Powers of the Company to enforce Payment thereof by Action.

Company may issue Shares in lieu of Shares merged in Company.

XXXII. That in lieu and instead of any Share which shall be cancelled or merged as aforesaid it shall be lawful for the Company from Time to Time to create and issue Shares of such Amount and upon such Terms and in such Manner as by the Votes of Three Fifths at least of the Shareholders of the Company present in Person or by Proxy at a General Meeting shall be resolved and determined; provided that the Company shall not by the Creation of new Shares as aforesaid increase the aggregate Amount of their Capital; provided also, that the Capital to be raised by the Creation of such new Shares shall be applied only to the Purposes of this Act and of the recited Acts, or either of them; and provided further, that nothing herein contained shall authorize the Company to create or issue any Shares having a Right to a Guarantee, or a preferential or fixed Dividend.

Amount of Shares.

XXXIII. That the nominal Amount of each of such Shares so authorized to be issued as aforesaid shall not exceed Thirty Pounds.

Amount of Calls, and Intervals between Calls.

XXXIV. That the Amount of any Call to be made upon the Proprietors of such Shares so authorized to be issued as aforesaid shall not exceed the Rate of Ten *per Centum* on the Amount of any such Share, and there shall be an Interval of not less than One Calendar Month between every Two successive Calls, and that the aggregate Amount of such Calls in any One Year shall not exceed Twenty-five Pounds.

Such Shares to be Part of general Capital.

XXXV. That such Shares so authorized to be issued as aforesaid shall be Part of the general Capital of the Company.

Scale of voting for Shares.

XXXVI. That so much of the said first-recited Act as provides for the Scale according to which the Shareholders may vote in respect of their Shares in the Company shall be and the same is hereby repealed, and that in lieu thereof every Shareholder in the Company shall

shall have One Vote for every Share up to Ten, and he shall have an additional Vote for every Five Shares beyond the First Ten Shares held by him up to One hundred, and an additional Vote for every Ten Shares held by him beyond the First Hundred Shares: Provided always, that no Shareholder shall be entitled to vote at any Meeting unless he shall have paid all the Calls then due upon the Shares held by him.

No Interest or Dividend to be paid on Calls paid up.

XXXVII. That the Company shall not out of any Money by any Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay Interest or Dividend to any Shareholders on the Amount of Calls made in respect of such Shares so authorized to be issued as aforesaid: Provided always, that the Company may pay to any such Shareholder such Interest on Money advanced by him beyond the Amount of Calls actually made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation Act, 1845," in that Behalf contained.

Deposits for future Bills not to be paid out of Company's Capital.

XXXVIII. That the said Company shall not, out of any Money by any Act relating to the Company authorized to be raised for the Purpose of such Act or Acts, pay or deposit any Sum of Money which by any Standing Order of either House of Parliament for the Time being in force may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any Railway or to execute any other Work or Undertaking.

Railway to be subject to Provisions of 1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55, 7 & 8 Vict. c. 85, 9 & 10 Vict. cc. 57. 105., and 14 & 15 Vict. c. 64.

XXXIX. And whereas an Act was passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway;* and another Act was passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways;* and another Act was passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops;* and another Act was passed in the Eighth Year of the Reign of Her said Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways;* and Two other Acts were passed in the Ninth and Tenth Years of the Reign of Her said Majesty, intituled *An Act for regulating the Gauge of Railways*, and *An Act for constituting Commissioners of Railways;* and another Act was passed in the Fifteenth Year of the same Reign, intituled *An Act to repeal the Act for constituting Commissioners of Railways:* Be it enacted, That nothing in this Act contained shall be held

held to exempt the said Railway or the said Company from the Provisions of such several Acts respectively, but such Provisions shall be in force in respect of the said Railway and the said Company, so far as the same are applicable thereto.

Railway not exempt from Provisions of future General Railway Acts.

XL. That nothing herein contained shall be deemed or construed to exempt the said Company or the Railway by this Act or the said recited Act authorized to be made from the Provisions of any General Act relating to such Acts, or of any General Act relating to Railways, or to the better and more impartial Audit of the Accounts of Railway Companies, now in force or which may hereafter pass during the present or any future Session of Parliament, or for any future Revision and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges authorized by this or the recited Acts.

Expenses of Act.

XLI. That the Expenses, Costs, and Charges of preparing and passing this Act and incidental thereto shall be paid by the Company.

Interpretation of Terms.

XLII. That wherever in this Act or in "The Railways Act (*Ireland*), 1851," the Expression "the Company" or "the said Company" shall be used, the same shall mean the *Dundalk and Enniskillen* Railway Company, except where there is something in the Context repugnant to such Construction.

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