CHAP. clxv.

An Act to enable the Navan and Kingscourt Railway Company to make a Deviation in and to extend their Railway; and for other purposes. [24th July 1871.]

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WHEREAS by "The Navan and Kingscourt Railway Act, 1865," (in this Act called "the first-recited Act,") the Navan and Kingscourt Railway Company (in this Act called "the Company") were incorporated and authorised to make a railway from Navan in the county of Meath to Kingscourt in the county of Cavan: 28 & 29 Vict. c. cccl.

And whereas the Company were by the Navan and Kingscourt Railway (Deviations) Act, 1867, (herein referred to as the second-recited Act,) authorised to make certain deviations in their authorised railway and to abandon certain parts thereof, and the time for compulsory purchase of lands and for the construction of their original line was extended: 30 & 31 Vict. c. cxlvi.

And whereas by "The Navan and Kingscourt Railway Act, 1870," herein referred to as the third-recited Act,) the time limited by the first and second Acts for the completion of the railways thereby authorised was extended for three years from the 4th day of July 1870: 33 & 34 Vict. c. cvii.

And whereas it is expedient to authorise the Company to abandon a portion of the railway authorised by the first-recited Act:

And whereas it is expedient to authorise the Company to extend their railway as herein-after provided:

And whereas it is expedient to enable the Company, in place of carrying the public road after mentioned over the railway by a bridge, to carry the railway by a level crossing over the public road herein-after described:

And whereas it is expedient that the Company be authorised to apply any of their funds or capital towards the purposes of this Act, and that they be authorised to raise additional capital for those purposes:

And whereas plans showing the line or situation of the proposed deviation and extension railway and of the proposed level crossing,

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and sections of those railways and level crossing, and a book of reference containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the land shown on the said plans, have been deposited with the clerks of the peace respectively for the counties of Meath, Cavan, and Monaghan, within which counties respectively those lands and works are or will be situate:

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 Navan and Kingscourt Railway Act, 1871."

Interpretation of terms.

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

Incorporation of general Acts.

3. "The Railways Clauses Consolidation Act, 1845," and Part I. (relating to construction of a railway) of "The Railways Clauses Act, 1863:"

The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters; (that is to say,)

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 by the Company on mortgage;

The consolidation of the shares into stock;

The general meetings of the Company, and the exercise of the right of voting by the shareholders;

The making of dividends; and

The affording access to the special Act:

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," "The Railways Act

(Ireland), 1851," "The Lands Clauses Consolidation Act, 1845," (so far as the same is consistent with "The Railways Act (Ireland), 1851," as amended by "The Railways Act (Ireland), 1860," and "The Railways Act (Ireland), 1864," "The Lands Clauses Consolidation Act Amendment Acts, 1860 and 1869," "The Railways Act (Ireland), 1860," and "The Railways Act (Ireland), 1864," shall be incorporated with and form part of this Act.

As to deposit of plans with clerks of unions.

4. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that certificates of any omissions, misstatements, or erroneous description in certain plans and books of reference therein referred to should be deposited with the postmaster 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 of 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 theretofore required to be deposited with the postmasters 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, all the provisions of "The Railways Clauses Consolidation Act, 1845," relating to the matters aforesaid, and to the expression "postmasters of the post towns in or nearest to such parishes in Ireland," or the word "postmaster," in the said Act, 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 "the postmaster of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmaster," as the case may be.

Power to construct deviation lines according to deposited plans.

5. Subject to the provisions of this Act and of the Acts wholly or partially incorporated herewith, the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose, or as they may think expedient for carrying this Act into execution.

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Describing deviation lines.

6. The railways herein-before referred to and by this Act authorised are the following:

1. A deviation of part of the present authorised line of the Navan and Kingscourt Railway, commencing by a junction with the authorised line in a field in the townland of Simonstown in the county of Meath, belonging or reputed to belong to John Hopkins, now in the occupation of James Sherlock, and numbered thirty-five on the plan of the said railway deposited with the clerk of the peace of the said county of Meath, with reference to "The Navan and Kingscourt Railway Act, 1865," and terminating by a junction with the said authorised line in the townland of Moortown in the said county of Meath, in a field marked number seven on the said deposited plan:

2. An extension railway, commencing by a junction with the termination of the authorised Navan and Kingscourt Railway, at a point in the townland of Corgarry in the parish of Enniskeen in the county of Cavan, and terminating at a point on the north side of a field in the townland of Kilmactrasna in the parish of Magheross in the county of Monaghan, belonging or reputed to belong to and in the occupation of Henry Edward Porter, Esquire, and which field is bounded on the north by a public road from Kingscourt to Carrickmacross, and such point is situate about four and a half chains from the boundary between the townlands of Kilmactrasna and Mullanarry, both in the county of Monaghan, where such boundary crosses the said public road:

And the railways by this Act authorised shall be and be deemed for all purposes whatsoever, including the levying of tolls, rates, and charges, part of the undertaking of the Company, and as though they had been authorised by the first or second recited Acts.

Company to abandon certain portions of original line.

7. The Company shall abandon the formation of so much of the authorised line of the Navan and Kingscourt Railway as is situate between the commencement and termination of the intended deviation railway number one, for which the said deviation number one is substituted, and all the powers, authorities, and privileges by the first and second recited Acts granted to the Company for the construction of the portion of the authorised line which is by this Act required to be abandoned shall from and after the passing of this Act cease and determine.

Compensation for damage to

8. The abandonment by the Company, under the authority of this Act, of any portion of any railway or works shall not prejudice

or affect the right of the owner or occupier of any land to receive compensation, in accordance with the provisions in that behalf of "The Lands Clauses Consolidation Act, 1845," for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation in accordance with the provisions in that behalf of "The Railways Clauses Consolidation Act, 1845," for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise as regards such lands of any of the powers contained in the last-mentioned Act or "The Navan and Kingscourt Railway Act, 1865."

Entry on land by entry, &c. for purposes of railways abandoned.

9. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this Act, and which shall not be required for the purposes of any of the works by this Act authorised, full compensation shall be made by the Company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," and for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Compensation to be made in respect of portions of railway abandoned.

10. Whereas the Company have, without his consent, entered upon the lands of the Right Honourable Colonel Thomas Edward Taylor, and have cut into and damaged the said land, be it enacted, that the Company shall forthwith restore possession of the said land to the said Colonel Taylor, and pay to him all damages occasioned thereto, and the costs which will be incurred in restoring the same, and the Company shall not hereafter enter upon or take any of the land of the said Colonel Taylor without his consent, unless they shall have previously paid to him the value of the land which they may propose to take, and the damage and cost of restoration of the land so as aforesaid entered upon to be respectively settled between the parties by Henry Alexander Hamilton, Esquire.

As to lands of Colonel Taylor.

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Power to raise additional capital.

11. The Company may for the general purposes of their undertaking, and for the purposes of this Act, create additional share capital to an amount not exceeding twelve thousand pounds by the creation and issue of one thousand two hundred new ordinary or preference shares of ten pounds each.

Shares not to issue until one fifth paid up.

12. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

13. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

14. The Company may from time to time borrow on mortgage any sum not exceeding in the whole four thousand pounds, in addition to the sum they are already authorised to borrow on mortgage, but no part thereof shall be borrowed until the whole additional capital of twelve thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Repeal of section of first-recited Act.

15. Section twenty-eight of the first-recited Act, authorising the appointment of a receiver, is hereby repealed, but without prejudice to any appointment heretofore made or proceedings now pending under the same.

For appointment of a receiver.

16. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on

their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than four thousand pounds in the whole.

Priority of existing over future mortgages.

17. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and which shall be subsisting at the time of the passing thereof, shall during the continuance of such mortgages and bonds have priority over any mortgage to be granted by virtue of this Act.

Application of moneys.

18. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of the undertaking of the Company.

Company may apply their funds towards purposes of Act.

19. It shall be lawful for the Company to appropriate and apply for the purposes of this Act, or any of them, any of the moneys which they are already authorised to raise, and which may not be required by them for the purposes of the recited Acts.

Power to cross certain roads on the level.

20. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to the crossing of roads on the level, the Company may, in the construction of the railways, carry the same with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the roads next herein-after mentioned; (that is to say,)

Number on deposited plan.	Townland.	Parish.	Description of road.
6	Silloge - -	Kilberry - -	Public road.
9	Drumgill - -	Enniskeen -	Public road.
16	Derryleeg - -	Magheracloone -	Public road.

Substitution of level crossing for bridge on authorised line.

21. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to the crossing of roads on the level, the Company may, in the construction of the authorised railway, in lieu of the mode prescribed in the first-recited Act, carry the same with a single line of

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railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the public road next herein-after mentioned, and may enter upon, take, and use such of the lands delineated on the said deposited plans and described in the said deposited book of reference as may be required for that purpose:

Number on deposited plan.	Townland.	Parish.	Description of road.
19	Balshaw.	Kilberry.	Public road.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

22. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, an amount of consolidated three per cent. annuities being equal to one thousand eight hundred and seventy-nine pounds thirteen shillings, which is five per centum upon thirty-seven thousand five hundred and ninety-three pounds, the amount of the estimate in respect of the extension railway authorised by this Act, have been transferred to the Court of Chancery in Ireland in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said recited Act, the said funds so transferred as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the said Company shall, previously to the expiration of the period limited by this Act for completion of the extension railway hereby authorised to be made, either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the said Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the period shall expire before the said Company shall either have opened the said extension railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said funds so transferred as aforesaid shall be applied in the manner herein-after specified, and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient

evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act notwithstanding.

Application of deposit.

23. The said funds so transferred as aforesaid shall be applicable, and after due notice in the "Dublin Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said extension railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation, or inadequate compensation, shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in Ireland may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said funds, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said funds shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for the completion of the railways.

24. The railways by this Act authorised to be constructed shall be completed within three years from the passing of this Act, and on the expiration of such period the powers by this Act granted to the Company for making the railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Power for compulsory purchase limited.

25. The powers of the Company for the compulsory purchase or taking of lands for the purposes of the undertaking of the Company shall remain in force until, but shall not be exercised after, the expiration of two years from the passing of this Act.

Interest not to be paid on calls paid up.

26. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not

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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.

27. 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.

Railways not exempt from provisions of present and future general Acts.

28. Nothing herein contained shall be deemed or construed to exempt the railways by this or the former Acts authorised to be made from the provisions of any general Act relating to railways, 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 authorised by this Act or the former Act, and of the rates for small parcels.

Expenses of Act.

29. All the costs, charges, and expenses of applying for, obtaining, and passing this Act, or preparatory or incident thereto, shall be paid and discharged by the Company.

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