

[3 EDW. 7.] *Strabane, Raphoe, and Convooy Railway* [Ch. cclx.]  
*Act, 1903.*



### CHAPTER cclx.

An Act to authorise the construction of a railway in the counties of Tyrone and Donegal between Strabane and Convooy and for other purposes. [14th August 1903.] A.D. 1903.

**W**HEREAS the construction of the railway and works hereinafter described would be of local and public advantage :

And whereas the persons hereinafter in that behalf named with others are willing to undertake the same on the powers hereinafter contained being conferred upon them and it is expedient that they be incorporated into a company for that purpose :

And whereas it is expedient that the Company by this Act incorporated on the one hand and the Donegal Railway Company on the other hand should be authorised to enter into agreements as provided by this Act :

And whereas it is expedient that the Company by this Act incorporated and any company or person for the time being working or using the railway of the Company should be authorised to run over and use the portion of railway hereinafter mentioned :

And whereas the construction of the railway by this Act authorised will greatly benefit the trade and inhabitants of the county of Donegal and the urban district of Strabane in the county of Tyrone and it is expedient that provision should be made for the guarantees by the councils of the said county and urban district hereinafter referred to with respect to a portion of the share capital of the Company :

And whereas it is expedient that the other provisions of this Act should be made :

And whereas plans and sections showing the line and levels of the railway and works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed

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A.D. 1903. — owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerks of the peace for the counties of Tyrone and Donegal respectively and are hereinafter respectively referred to as the deposited plans sections and book of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 as the *Strabane Raphoe and Convoy Railway Act 1903.*

Incorporation of general Acts. 2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts the Railways Act (Ireland) 1851 the Railways Act (Ireland) 1860 the Railways Act (Ireland) 1864 the Railways Traverse Act the Railways (Ireland) Act 1896 the Lands Clauses Acts the Railways Clauses Consolidation Act 1845 Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 and the Regulation of Railways Act 1868 are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

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 And for the purposes of this Act—

The expression "the Company" means the Company incorporated by this Act ;

The expression "the Donegal Company" means the Donegal Railway Company ;

The expression "the undertaking" means the undertaking of the Company by this Act authorised ;

The expression "the railway" means the railway by this Act authorised.

Interpretation of certain pro- 4. With reference to this Act all the provisions of sections 7 8 and 9 of the Railways Clauses Consolidation Act 1845 shall be

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read and construed as if the expression "clerks of the district councils within which such parishes are included in Ireland" or the words "clerks of the district councils" (as the case may be) had been used and inserted in such sections instead of the expression "the postmasters of the post towns in or nearest such parishes in Ireland" or instead of the word "postmasters" as the case may be.

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visions of  
Railways  
Clauses  
Consolidation  
Act 1845.

5. Thomas Butler Stoney Emerson Tennant Herdman Patrick McMenamin John Shepherd Weir and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making maintaining working and using the railway and works by this Act authorised and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "the Strabane Raphoe and Convoy Railway Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Company in-  
corporated.

6. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway and works hereinafter described with all proper stations sidings approaches works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference relating thereto as may be required for those purposes and may stop up or divert such roads and footpaths as are shown on the deposited plans of the said railway as intended to be stopped up or diverted The railway and works hereinbefore referred to and authorised by this Act are—

Power to  
make rail-  
way &c.

A railway (being a portion of the Railway No. 1 shown on the deposited plans) (nine miles two furlongs and six chains or thereabouts in length) commencing in the townland of Townparks in the parish of Leckpatrick in the county of Tyrone by a junction with the railway of the Donegal Company at a point thereon near the northern end of the passenger station building at Strabane of the Donegal Company and terminating in the townland of Milltown in the parish of Convoy in the county of Donegal at a point on the east side of the main road from Convoy to Raphoe.

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Power to  
take ease-  
ments &c. by  
agreement.

7. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to  
cross certain  
roads on  
level.

8. 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 railway carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the roads next hereinafter mentioned (that is to say) :—

No. on deposited Plans.	Townland.	Parish.	Description of Road.
4	Roughan - - -	Clonleigh - - -	Public.
10	Tannawood - - -	Clonleigh - - -	Public.
4	Mullaghanny - - -	Clonleigh - - -	Public.
8	Townparks - - -	Raphoe - - -	Public.

Inclination  
of road.

9. In altering for the purposes of this Act the road numbered on the deposited plans 21 in the townland of Lifford Common in the parish of Clonleigh the Company may make the same of any inclination not steeper than one foot in twenty feet.

Height and  
span of  
bridges.

10. The Company may make the arches of the bridges for carrying the railway over the roads next hereinafter mentioned of any heights and spans not less than the heights and spans hereinafter mentioned in connection therewith respectively (that is to say) :—

No. on deposited Plans.	Townland.	Parish.	Description of Road.	Height.	Span.
6	Ballindrait -	Clonleigh -	Public -	Feet. 15	Feet. 20
7	Sheercloon -	Clonleigh -	Public -	14	30
11	Massbeg -				
3	Tullyvinny -	Raphoe -	Public -	15	20

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11. The Company may make the roadway over the bridge by which the road numbered on the deposited plans 20A in the townland of Townparks in the parish of Raphoe will be carried over the railway of such width between the fences thereof as the Company think fit not being less than twenty feet.

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Width of a certain roadway.

12. The Company may divert the public highways referred to in the next following table in the manner shown upon the deposited plans and sections and when and as in each case the new portion of any road is made to the satisfaction of two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing road as will be rendered unnecessary by the new portion of road (that is to say) :--

Power to divert roads as shown on deposited plans.

Railway.	Townland.	Parish.	No. on deposited Plans.
No. 1	Sheercloon - - -	Clonleigh - - -	6
	Sheercloon - - -	Clonleigh - - -	7
	Massbeg - - -	Clonleigh - - -	2
	Massbeg - - -	Clonleigh - - -	2A
	Massbeg - - -	Clonleigh - - -	11
	Mullaghanny - - -	Clonleigh - - -	4
	Townparks - - -	Raphoe - - -	20A
	Tullyvinny - - -	Raphoe - - -	3

And when and so soon as such portion of each of the said roads is so stopped up all rights of way over the same shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation Act 1845 with respect to mines lying under or near to the railway appropriate and use for the purposes of their undertaking the site of the portion of road stopped up as far as the same is bounded on both sides by lands of the Company.

13. The Company may and shall make and maintain the railway by this Act authorised of the gauge of three feet.

Gauge of railway.

14.—(1) The junction between the railway and the Donegal Railway and all openings in the rails of the Donegal Railway shall be made only at such point thereon within the limits of deviation shown on the deposited plans and in accordance with such plans as to the manner and form of junction as the engineer of the Donegal Company may approve or failing approval as may be decided by an arbitrator appointed by the Board of Trade on the application of the Company.

For protection of Donegal Company.

(2) The Company shall pay to the Donegal Company all costs charges and expenses which may reasonably be incurred by them in

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(3) In the event of any difference arising between the Company and the Donegal Company as to the amount so expended the same shall be settled by an arbitrator to be appointed on the application of either company by the Board of Trade.

(4) Notwithstanding anything in this Act contained it shall not be lawful for the Company to acquire compulsorily any of the lands works or property of the Donegal Company or in any manner to alter vary or interfere with the Donegal Railway save only for the purpose of effecting the junction by this Act authorised with that railway.

Capital. 15. The capital of the Company shall be ninety thousand pounds in nine thousand shares of ten pounds each.

Shares not to be issued until one-fifth paid. 16. The Company shall not issue any share created under the authority of this Act nor shall any such 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 is paid in respect thereof.

Calls. 17. 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.

Receipt in case of persons not sui juris. 18. If any money is payable to a shareholder or mortgagee or debenture stock holder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow on mortgage. 19. The Company may from time to time borrow on mortgage of the undertaking any moneys not exceeding in the whole forty thousand pounds in respect of the capital of ninety thousand pounds by this Act authorised to be raised Provided that in respect of every twenty thousand pounds of such capital issued and accepted and one-half whereof shall have been paid up the Company may borrow a sum or sums not exceeding in the whole ten thousand pounds But no part of any of the before-mentioned sums of ten thousand pounds shall be borrowed until shares for the said portion of the capital in respect of which the borrowing powers

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are to be exercised are issued and accepted and one-half of such portion of capital 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 shares for the whole of such portion of capital have been issued and accepted and that one-half of such portion has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares were issued bonâ fide and are held by the persons to whom the same were issued or their executors administrators successors or assigns and that such persons or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

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20. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Appointment  
of receiver.

21. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal money secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture  
stock.

22. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

Application  
of moneys.

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Power to  
Donegal  
Company to  
subscribe  
and to apply  
funds for  
that purpose.

**23.** The Donegal Company may with the authority of three-fourths of the votes of their shareholders present in person or by proxy at a general meeting of that company specially convened for the purpose subscribe such moneys not exceeding in the whole the sum of forty thousand pounds as they may think fit towards the capital of the Company and the said company may with the like authority contribute and apply in or towards payment of their said subscription any moneys which they are already authorised to raise and which may not be required by them for the purposes of their undertaking and also any moneys which they are by this Act authorised to raise and the Donegal Company shall in respect of the sums to be subscribed and the corresponding shares in the Company to be held by them have all the powers rights and privileges (except in regard to voting at general meetings which shall be as hereinafter provided) and be subject to all the obligations and liabilities of proprietors of shares in the Company Provided always that the Donegal Company shall not sell dispose of or transfer any of the shares in the Company for which they may subscribe.

First ordinary meeting.

**24.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Number of directors.

**25.** The number of directors shall be seven but the Company may vary the number provided that the number be not at any time more than ten or less than five.

Qualification of directors.

**26.** The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Quorum.

**27.** The quorum of a meeting of directors shall be three.

First directors.

**28.** Thomas Butler Stoney Emerson Tennant Herdman Patrick McMenamin John Shepherd Weir and three other persons to be nominated by them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act.

Election of directors.

**29.** At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of such of the said directors as shall not be continued in office the directors appointed by this Act or nominated as aforesaid being (if they continue qualified) eligible for re-election and at the first ordinary



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meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for varying the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act. A.D. 1903.

**30.** The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed twenty acres but nothing in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section. Lands for extraordinary purposes.

**31.** The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act. Period for compulsory purchase of lands.

**32.** If the railway authorised by this Act is not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the said railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed. Period for completion of railway.

**33.—(1)** Any limited owner as defined in this section may with the sanction of the Commissioners of Public Works in Ireland (in this section called "the Commissioners") given under this section— As to limited owners.

(A) Grant to the Company either without payment of purchase money or compensation or in consideration of the issue as hereinafter provided of shares in or debenture stock of the Company any land which the Company are authorised to purchase and take for the purposes of the railway and may convey the same free from all incumbrances thereon ;

(B) Accept compensation in shares in or debenture stock of the Company for any injury to his property caused by the construction and use of the said railway :

Provided that the costs or expenses incurred by such limited owner or any successor in title or person entitled in reversion or remainder to the land or by the trustees for the time being hereinafter

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A.D. 1903. mentioned or by any incumbrancer on the land of all conveyances and assurances to the Company of such lands and of evidencing and verifying the title to the same or to such shares or debenture stock when issued to the trustees as hereinafter provided and of appearing before the Commissioners shall be paid by the Company and such costs and expenses may be taxed in manner provided in respect to costs incurred under the provisions of the Railways Act (Ireland) 1864 and if within seven days after demand of the amount certified the same be not paid it may be recovered in the manner provided by the thirteenth section of the Railways Act (Ireland) 1851.

(2) The Commissioners shall not give their sanction under this section to any grant of land upon the terms aforesaid unless they are satisfied that the estate of which the land so to be purchased and taken forms part will be permanently increased in value by the construction of the railway. Provided always that in the case of a free grant of land by the limited owner to the Company the Commissioners shall certify that in their opinion the said estate will be permanently increased in value to an amount greater than the value of the land so granted and in case such land shall be granted in consideration of the issue of shares or debenture stock that in the opinion of the Commissioners the said estate will be permanently increased in value to an amount exceeding the difference between the value of the land so granted and the actual value of such shares or debenture stock at the date of the transfer or conveyance of the land to the Company. Provided also that if the land proposed to be granted is subject to incumbrances the Commissioners before giving their sanction under this section shall cause notice to be given to the incumbrancers and shall consider the objections (if any) raised by them.

(3) Where any limited owner grants any land to the Company in consideration of the issue of shares in or debenture stock of the Company the amount of such shares or debenture stock shall be equal in nominal value to the purchase money of such land and such shares or debenture stock as well as any shares or debenture stock issued by way of compensation for any injury to the property of a limited owner shall be issued to two trustees nominated by the limited owner to be held by them upon the like uses and trusts and for the same purposes as the estate of which such land or property formed or forms part stood or stands settled. Provided that such shares or debenture stock shall be deemed to be fully paid up shares in or debenture stock of the Company.

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(4) If either or both of such trustees die resign or become incapable of acting then the limited owner or his successor in title may nominate by writing under his hand another person or other persons to be a trustee or trustees in place of the trustee or trustees having died resigned or become incapable of acting. A.D. 1903.

(5) If any one trustee die resign or become incapable of acting the remaining trustee shall continue to be as competent to act as if no such deficiency in number had occurred and no act of the surviving trustee shall be invalidated or illegal by reason of the vacancy not being filled up or by reason of any irregularity or omission in or about any appointment of a new trustee or trustees.

(6) Trustees appointed under this section shall be indemnified against any claim or any loss by reason of their acting and taking and holding any shares or debenture stock under the provisions and for the purposes of this section.

(7) The term "limited owner" in this section shall mean any person or persons by whom the powers of sale conferred by section 7 of the Lands Clauses Consolidation Act 1845 may under the authority of the said section be lawfully exercised.

**34.—**(1) Subject to the provisions of this Act the Company and any company or person lawfully working or using the railway may run over and use with their engines carriages and waggons and clerks officers and servants whether in charge of or accompanying any engines or trains or for any other purpose whatsoever and for the purposes of their traffic of every description the following portion of railway viz. :— Running powers.

So much of the railway of the Donegal Company as lies between the point of commencement hereinbefore described of the railway by this Act authorised and the point of commencement of the railway of the Donegal Company from Strabane to Londonderry ;

together with so much of the station at Strabane of the Donegal Company and of all stations roads platforms points signals water watering places engine sheds standing room for engines carriages and waggons booking and other offices warehouses sidings loading and unloading places turntables junctions machinery works and conveniences on or connected with the railway of the Donegal Company and the said station as may be agreed upon between that company and the Company and as regards traffic of every description conveyed by them the Company may demand and take upon and in respect of such portion of railway the rates

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and charges which the Donegal Company are entitled to demand and take.

(2) The terms conditions and regulations to be observed and fulfilled and the tolls charges rent or other considerations to be paid by the Company and any other company as aforesaid for and in respect of the running over and use of the said portion of railway stations works and conveniences shall be such as may be agreed upon between the Donegal Company on the one hand and the Company on the other hand.

(3) In running over and using the said portion of railway and using the stations sidings and conveniences in accordance with the provisions hereinbefore contained the regulations and byelaws for the time being in force on the railway of the Donegal Company shall be at all times observed so far as such byelaws shall be applicable.

(4) Provided that the Company and any other company as aforesaid shall not use any telegraphs or telephones used by the Postmaster-General for the service of the Post Office without his consent.

Power to  
enter into  
working  
agreements  
with Donegal  
Company.

**35.** The Company on the one hand and the Donegal Company on the other hand may (subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Railway and Canal Traffic Acts 1873 and 1888) enter into agreements with respect to the following purposes or any of them (that is to say) :—

The maintenance and management of the railway or any part thereof and of the works connected therewith or any of them :

The use or working of the railways or railway of the companies respectively or of any part thereof and the conveyance of traffic thereon :

The supply and maintenance by the Donegal Company under and during the continuance of any such agreement as aforesaid for the working of the railway of engines stock and plant necessary for the purposes of such agreement and the employment of officers and servants :

The fixing subject to the authorised maximum rates and the collecting and apportionment of the tolls rates charges receipts and revenues levied taken or arising in respect of traffic.

**36.** During the continuance of any agreement to be entered into under the provisions of this Act for the working or use of the railway by the Donegal Company the railways of the Company and of the Donegal Company shall for the purpose of short distance rates and charges be considered as one railway and in estimating the amount of rates and charges in respect of passengers conveyed partly on the railway of the Company and partly on the railway of the Donegal Company for a less distance than three miles rates and charges may be charged as for three miles and for every mile or fraction of a mile beyond three miles as for one mile only.

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Short distance charges in case of working agreement.

**37.** Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of five thousand five hundred and forty-nine pounds being five per centum upon the amount of the estimate in respect of the railways originally proposed to be authorised by the Bill for this Act has been deposited with the Accountant-General of the Supreme Court in Ireland in respect of the application to Parliament for this Act And whereas Railways Nos. 2 3 and 4 and a portion of Railway No. 1 as originally proposed are not authorised by this Act and the sum of two thousand and forty-nine pounds (part of the said sum of five thousand five hundred and forty-nine pounds) is attributable to the said railways and portion of railway And whereas the sum of three thousand five hundred pounds being the balance of the said sum of five thousand five hundred and forty-nine pounds is equal in value to five per centum on the amount of the estimate of the railway by this Act authorised and is referred to in this Act as "the deposit fund" Be it enacted that notwithstanding anything contained in the said Act the said deposit fund 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 (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers

Deposit money not to be repaid except so far as railway is opened.

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Application  
of deposit.

**38.** If the Company do not previously to the expiration of the period limited for the completion of the railway complete the same and open it for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the Dublin Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who 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 has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit And if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or the Company is insolvent or the undertaking has been abandoned be paid or transferred to such receiver or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the depositors Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as hereinbefore 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 depositors.

39. On the application of the depositors in a summary manner at any time after the passing of this Act the High Court may and shall order that the sum of two thousand and forty-nine pounds hereinbefore mentioned and any interest thereon shall be repaid to the depositors or to any other person or persons whom the depositors may appoint on their behalf.

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Release of  
portion of  
deposit  
money.

40.—(1) The Company shall not under the powers of this Act purchase or acquire in any urban district ten or more houses which on the fifteenth day of December last were or have been since that day or shall hereafter be occupied either wholly or partly by persons belonging to the labouring class as tenants or lodgers unless and until the Company—

Restrictions  
on displac-  
ing persons  
of labouring  
class.

- (A) Shall have obtained the approval of the Local Government Board for Ireland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the said fifteenth day of December or for such number of persons as the said Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circumstances of the case ; and
- (B) Shall have given security to the satisfaction of the said Local Government Board for the carrying out of the scheme.

(2) The approval of the said Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the said Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the said Local Government Board may dispense with the last-mentioned requirement subject to such conditions (if any) as they may see fit.

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(4) Any provisions of any scheme under this section or any conditions subject to which the said Local Government Board may have approved of any scheme or of any modifications of any scheme or subject to which they may have dispensed with the above mentioned requirement shall be enforceable by a writ of mandamus to be obtained by the said Local Government Board out of the High Court.

(5) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the said Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom. Provided that the Court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Company may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase sections 203 and 214 of the Public Health (Ireland) Act 1878 shall be incorporated with this Act and shall apply to the purchase of lands by the Company for the purposes of any scheme under this section in the same manner in all respects as if the Company were a sanitary authority within the meaning of the Public Health (Ireland) Act 1878 and the scheme were one of the purposes of that Act.

(7) The Company may on any lands belonging to them or purchased or acquired under this section or any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the general purposes of their undertaking:

Provided that all lands on which any buildings have been erected or provided by the Company in pursuance of any scheme



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under this section shall for a period of twenty-five years from the date of the scheme be appropriated for the purpose of such dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment :

Provided also that the said Local Government Board may at any time dispense with all or any of the requirements of this subsection subject to such conditions (if any) as they may see fit.

(8) Notwithstanding anything to the contrary in section 41 of the Public Health (Ireland) Act 1878 the provisions of that section and of sections 39 and 40 of the same Act shall apply to buildings erected or provided by the Company for the purpose of any scheme under this section.

(9) The said Local Government Board may direct any inquiries to be held which they may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and the inspectors of the said Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health (Ireland) Act 1878.

(10) The Company shall pay to the said Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

(11) Any houses purchased or acquired by the Company for or in connection with any of the purposes of this Act whether purchased or acquired in exercise of the powers conferred by this Act or otherwise and whether before or after the passing of this Act which may have been occupied by persons of the labouring class within five years before the passing of this Act and for which houses no substitutes have been or are directed to be provided by any scheme approved by the said Local Government Board under the powers of any previous Act relating to the Company shall for the purposes of this section be deemed to have been acquired under the powers of this Act and to have been occupied on the fifteenth day of December last by the same number of persons belonging to the labouring class as were occupying the said houses at the date of their acquisition. Provided that if the said Local Government Board are unable to ascertain the number of such persons who

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A.D. 1903. were then occupying the said houses the said houses shall be deemed to have been occupied by such number of such persons as in the opinion of the said Local Government Board they might have been sufficient to accommodate.

(12) For the purposes of this section—

The expression "house" means any house or part of a house occupied as a separate dwelling; and

The expression "labouring class" means mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Guarantee  
by county  
council of  
Donegal and  
urban dis-  
trict council  
of Strabane.

41.—(1) It shall be lawful for the county council of the county of Donegal and the council of the urban district of Strabane in the county of Tyrone or either of them jointly or severally and they are hereby respectively empowered to guarantee the payment of and to pay to the Company by half-yearly instalments such a sum as together with any dividend which may be earned by the Company on their ordinary capital as hereinafter provided shall be sufficient to enable the Company to pay a dividend on the respective proportions hereinafter specified of such ordinary capital at the rate of four per centum in each year.

(2) The proportion of the ordinary capital of the Company to which such guarantees shall respectively relate shall be as follows (namely):—

As regards the county council of the county of Donegal the sum of fourteen thousand five hundred pounds; and

As regards the council of the urban district of Strabane the sum of five thousand pounds.

(3) As from the date of any resolution of the said respective councils to guarantee as aforesaid such guarantee shall be charged upon the areas hereinafter respectively specified and the councils so resolving shall in each half-year after the respective dates of issue of the proportions hereinbefore specified of the capital of the Company to which such guarantees respectively relate pay the sums hereinbefore prescribed.

(4) The said county council may and shall charge and assess such guarantee and payment upon the areas specified in the

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schedule to this Act and the said urban district council may and shall charge and assess such guarantee and payment upon the areas in which they are authorised to levy rates. A.D. 1903.

(5) Such guarantee and payment shall be charged and assessed according to the respective annual values of the said areas as valued under the Acts relating to the valuation of rateable property in Ireland.

(6) For the purpose of ascertaining the sums which shall be payable by the said county council and urban district council respectively or such of them as shall have resolved to guarantee as aforesaid (in this section referred to as "guaranteeing authorities") and for the purpose of ascertaining the amount of the dividend which shall for the purposes of this section be deemed to have been earned by the Company the Board of Trade shall at the request of the Company and the guaranteeing authorities or any of them appoint one person to act as arbitrator and the Board of Trade may from time to time revoke the appointment of such arbitrator and shall thereupon appoint a person in his place and supply the place of any such arbitrator dying or resigning or refusing or failing or becoming incapacitated to act and such arbitrator shall from time to time ascertain the amount for the time being paid up in respect of capital raised by means of guaranteed shares and shall also from time to time ascertain and determine the amount of the net receipts of the Company in each half-year having regard to any working agreement which may have been entered into by the Company under the authority of this Act and also any other matter which to him may appear necessary to inquire into and determine in order to ascertain the amount (if any) which may be applicable out of the net receipts of the Company in or towards the payment of the guaranteed dividend and shall assess and determine the amount (if any) of the half-yearly sums to be paid by the guaranteeing authorities respectively and the arbitrator within two months of the receipt by him of the accounts of the Company as in this Act provided shall set forth the several matters so ascertained and determined by him in a certificate in writing under his hand and every such certificate shall be in all respects final and binding on the guaranteeing authorities and the Company and from and immediately after delivery of any such certificate to the respective secretaries or clerks to the guaranteeing authorities such authorities shall become liable for the payment of such half-yearly sum as shall be specified in every such certificate and a copy of every such certificate shall be delivered to the Company and the Company

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A.D. 1903. shall immediately thereafter pay to such arbitrator his costs and expenses and such remuneration for his trouble in regard thereto as may be agreed upon or as in default of agreement the Board of Trade shall order.

Account to be rendered to the arbitrator.

42. For the purpose of ascertaining the amounts for the time being paid up in respect of capital raised by means of guaranteed shares and of ascertaining the net receipts of the Company the Company and any company working the railway by this Act authorised shall from time to time on or before the first day of August and the first day of February in every year make out and deliver to the said arbitrator an account showing the amount for the time being paid up in respect of capital raised by means of guaranteed shares together with full true and distinct and separate accounts of all receipts of every nature and kind of the Company for the then preceding half-year ending the thirtieth day of June and the thirty-first day of December in each year and of the expenditure by the Company which accounts the said arbitrator shall and he is hereby authorised and empowered to examine with the documents and vouchers evidencing the same and all books papers and accounts in the custody and control of the Company relating to the business of the Company and all such accounts documents vouchers books and papers shall be kept by the Company who shall on the request of the said arbitrator from time to time produce the same to such arbitrator for examination and such arbitrator may if he think fit employ an actuary or accountant to assist him in such examination from time to time at the cost and expense of the Company and the Company shall keep proper and correct books of account to show the receipts expenses and profits of the Company to which books of account the said arbitrator shall have at all reasonable times access and from which he may at all times take extracts and the said arbitrator shall adjust and balance the said accounts and as to all matters relating to the said accounts or what shall be considered for the purposes of this Act as gross receipts from traffic or net receipts from traffic his decision shall in all respects be final and conclusive.

Power to Donegal Company to raise money by creation of shares or stock.

43. The Donegal Company may raise for the purposes of their subscription to the capital of the Company any capital not exceeding in nominal amount forty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively and the clauses and provisions

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of the Companies Clauses Consolidation Act 1845 with respect to A.D. 1903.  
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 non-payment of calls ;
- The remedies of creditors of the Company against the shareholders ;
- 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 ;
- The giving of notices ; 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) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 shall extend and apply to the Donegal Company and to the additional capital which they are by this Act authorised to raise.

44. The Donegal Company shall not issue any share under the authority of this Act of less nominal value than ten pounds nor shall any share vest in the person or corporation 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.

Shares of Donegal Company not to be issued until one-fifth part thereof shall have been paid up.

45. All moneys which the Donegal Company may raise under the powers of this Act shall be applied for the purposes of the before mentioned subscription only.

Application of moneys raised by Donegal Company.

46. The Donegal Company whilst shareholders of the Company may by writing under their common seal from time to time appoint some person to attend any meetings of the Company and such person shall have all the privileges and powers attaching to a shareholder of the Company at such meetings and may vote thereat in respect of the capital held by the Donegal Company.

Votes of Donegal Company at general meetings.

47. The Company may with the authority of three-fourths of the votes of their shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose from time to time subscribe any sum or sums of money not exceeding in the whole ten thousand pounds towards the under-

Powers as to hotels &c.

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A.D. 1903. taking of any company formed or which may be formed for the purpose of erecting and maintaining an hotel or hotels at or near any station of the Company and may whilst shareholders of such company by writing under their common seal from time to time appoint some person to attend any meetings of such company and such person shall have all the privileges and powers attaching to a shareholder of such company and may vote thereat in respect of the capital held by the Company.

Tolls. 48. The Company may demand and take for the use of the railway by any other company or person with engines and carriages such reasonable tolls as they think fit.

Rates for merchandise. 49. The classification of merchandise traffic including perishable merchandise by passenger train and the table of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the Railway Rates and Charges No. 26 (Athenry and Ennis Junction Railway &c.) Order Confirmation Act 1892 shall be applicable and apply to the Company Provided that in respect of the conveyance of a consignment of perishable merchandise not exceeding fifty-six pounds in weight by a passenger train the Company shall not be entitled to charge a higher rate than the maximum rate which they are authorised to charge for the conveyance of parcels of the same weight.

Charges for small parcels. 50. For the conveyance on the railway of small parcels not exceeding five hundred pounds in weight by passenger trains the Company may demand and take any charges not exceeding the following (that is to say) :—

For any parcel not exceeding seven pounds in weight three-pence ;

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight fivepence ;

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight sevenpence ;

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight ninepence ;

And for any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight the Company may demand any sum they think fit :

Provided always that articles sent in large aggregate quantities although made up in separate parcels such as bags of sugar coffee

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meal and the like shall not be deemed small parcels but that term shall apply only to single parcels in separate packages. A.D. 1903.

51. The maximum fares to be charged by the Company for the conveyance of passengers upon the railway including every expense incidental to such conveyance shall not exceed the following (that is to say) :—

Maximum fares for passengers.

For every passenger conveyed in a first-class carriage three-pence per mile ;

For every passenger conveyed in a second-class carriage two-pence per mile ;

For every passenger conveyed in a third-class carriage one penny per mile ;

For every passenger conveyed on the railway for a less distance than three miles the Company may charge as for three miles and every fraction of a mile beyond three miles or any greater number of miles shall be deemed a mile.

52. Every passenger travelling upon the railway may take with him his ordinary luggage not exceeding one hundred and fifty pounds in weight for first-class passengers one hundred and twenty pounds in weight for second-class passengers and one hundred pounds in weight for third-class passengers without any charge being made for the carriage thereof.

Passengers' luggage.

53. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway in respect of which the Company may make such charges as they think fit but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers upon the railway.

Foregoing charges not to apply to special trains.

54. The Company shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this section the Board of Trade

Works below high-water mark not to be commenced without consent of Board of Trade.

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A.D. 1903. — may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable as a Crown debt or summarily.

Saving  
rights of  
Crown.

**55.** Nothing herein contained shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to the King's most Excellent Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give) neither shall anything herein contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the King's Majesty.

Power to pay  
interest out  
of capital  
during con-  
struction.

**56.** Notwithstanding anything in this Act or in any Act or Acts incorporated herewith the Company may out of any money by this Act authorised to be raised 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 by this Act for the completion of the works by this Act authorised 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 deposited with the Board of Trade a statutory declaration by two of the directors and the secretary of the Company 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 six thousand pounds and the amount so paid



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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:

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(d) Notice that the Company has 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.

57. 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.

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

58. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the commencement of this Act 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 by this Act.

Provision as to general Railway Acts.

59. Proceedings for the recovery of any demand not exceeding fifty pounds made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court.

Recovery of demands under fifty pounds.

60. 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.

Costs of Act.

A.D. 1903.

The SCHEDULE referred to in the foregoing Act.

AREAS IN THE COUNTY OF DONEGAL TO WHICH THE GUARANTEE  
 OF THE COUNTY COUNCIL OF DONEGAL SHALL RELATE.

Parish.	Townland.	
CONVOY	Treanboy. Castletorrison. Mullaghfin. Tommyscroft or Craigs. Artikelly. Starritstown. Cornagillah. Aughagault. Gortadragon. Lissinisk. Lissinore. Finnadork Glebe. Cloughgore. Calhame or Montgomerys Fort. Convoy Demesne Priestown. Magheranappin. Aughagaultbig. Callanacor.	Magheracorran. Gobnascale. Lisnaree. Knockagarrion. Killynure or Wilson's Fort. Broadpath. Findrum. Ballyboe. Milltown. Carrickbrack. Mullanard. Craigdoo. Coreashy. Meenavally. Macmeenstown. Convoy Townparks. Glasly. Drumumberland. Greenfield.
RAPHOE, the whole parish.		
CLONLEIGH	Kilmaster (Lower). Shannon (Middle). Shannon (Lower). Backland. Toberoneill. Calhame. Springhill. Drumnaha. Millsessiagh. Ballynabreen. Birdstown. Murlough. Lifford Common. Drumboy. Lifford Bog. Woodisland. Lifford. Edenmore. Townparks. Ballymonaster. Cloughfin. Lorgan Shaunagh. Mullaghanny. Massmore.	Massbeg. Sheercloon. Gortinreagh. Backhill. Ardnassool. Liskey. Tieveboy. Guystown. Ballindrait. Cavanacor. Tyleford. Rossgier. Moneen. Gortin North. Hollands. Mulnagung. Mulnaveagh. Tamnawood. Keeloge. Cavan. Gortnagole. Dooros. Croaghan.

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Parish.	Townland.	
TAUGHBOYNE -	Feddyglass. Tullyrap. Drumfad. Drumcrow. Drummucklagh. Drumbeg.	Carnshannagh. Dromore (Little). Dromore (Big). Carrickadawson. Woodlands.

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