



CHAPTER ccxi.

An Act to authorise the construction of a Railway in the county of Clare, to be called the Ennis and West Clare Railway; and for other purposes. [7th September 1880.] A.D. 1880.

WHEREAS the making and maintaining of the railways in the county of Clare herein-after described would be of public and local advantage:

And whereas the persons herein-after named, with others, desire to be incorporated into a Company for making the said railways:

And whereas plans and sections showing the lines and levels of the railways, together with books of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands and property required or which may be taken for the purposes of the undertaking, have been deposited for public inspection in the office of the clerk of the peace for the county of Clare in the month of November 1879, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas since the deposit of the said plans, sections, and books of reference a diversion of a portion of the railway in this Act first described has been deemed expedient, and plans and sections showing the line and levels of such diversion, with books of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands and property required or which may be taken for the purposes of such diversion, have also been deposited with the clerk of the peace for the county of Clare in the month of April 1880:

And whereas the railways will be made through or near to certain baronies in the county of Clare which will be greatly benefited by the construction of the railways, and it is expedient that provision be made for a guarantee by such baronies of dividend

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Act, 1880.

A.D. 1880. on so much of the share capital as herein-after mentioned to be raised under the authority of this Act and applied towards the construction of the railways :

And whereas a copy of the Bill for this Act as deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons was submitted to the grand jury of the county of Clare, and to the presentment sessions for the baronies named in this Act, and to the boards of guardians of the several unions affected thereby, and was approved by those respective bodies :

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 as the Ennis and West Clare Railway Act, 1880.

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, the Companies Clauses Act, 1869, the Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860; the Railways Clauses Consolidation Act, 1845, and Part I. (relating to the construction of a railway) of the Railways Clauses Act, 1863, the Railways Act (Ireland), 1851, the Railways Act, (Ireland), 1860, the Railways Act (Ireland), 1864, and the Railways Traverse Act, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms. 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. The expression "the Company" means the Company incorporated by this Act; the expressions "the railway," "the railways," and "the undertaking," mean respectively the railways and the undertaking by this Act authorised; and the expression "the baronies" means the baronies of Inchiquin, Corcomroe, and Ibrickane, in the county of Clare.

Incorporation of Company. 4. James Fitzgerald Lombard, David Coffey, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, adminis-

trators, successors, and assigns respectively, shall be and are hereby united into a Company for the purpose of making and maintaining the railways, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of the Ennis and West Clare 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.

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5. Subject to the provisions of this Act, 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, sidings, 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 books of reference as may be required for that purpose. The railways herein-before referred to and authorised by this Act are—

Power to
make rail-
ways.

1. A railway, twenty-five miles four furlongs and one chain in length, commencing in the parish of Templemaley, in the county of Clare, by a junction with the Athenry and Ennis Junction Railway at or near a point on the said railway two hundred and seventy-eight yards or thereabouts north of the bridge on the said railway over the road from Ennis to Tulla, in the said county, and which point of junction is one mile one furlong and one hundred and seventy yards measured along the line from the north end of the railway station house at Ennis, and terminating in the parish of Kilfarboy, in the same county, in a field occupied by Michael Malone, in the townland of Cloonbony, at the north side of the public road from Milltown to Ennistimon at a point one hundred and forty-eight yards north-west from the yard wall of the national schools at Milltown, measured along the said road from Milltown to Ennistimon :
2. A railway (on the deposited plans referred to as railway No. 3), one mile two furlongs and two chains in length, running parallel with the existing railway of the Athenry and Ennis Junction Railway Company and the Ennis branch of the Waterford and Limerick Railway Company, and on the lands of the said companies, and alongside those railways, commencing by a junction with the proposed railway No. 1 at a point two hundred and seventy-eight yards or thereabouts north from the bridge on the Athenry and Ennis Junction Railway over the road from Ennis to Tulla,

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measured along the said Athenry and Ennis Junction Railway, and six feet west of the rails thereof, in the townland of Dulick, parish of Templemaley, and county of Clare, and terminating at the north end of the passengers station-house of the Limerick and Ennis Railway of the Waterford and Limerick Railway Company at Ennis at the back of the platform thereof.

Deviation
viâ Corofin
to be made
according to
plan and
sections de-
posited in
the month
of April
1880.

Provided always, that so much of the railway first before described as is shown to extend from the point marked 1 mile 4 furlongs on the plans and sections deposited in the month of November one thousand eight hundred and seventy-nine to the point marked 16 miles 1 furlong on the same plans and sections shall not be made in the line and according to the levels shown on those plans and sections, but the line of railway between the points so marked shall be diverted and made in the line and according to the levels shown on the plans and sections of such diversion deposited in the month of April one thousand eight hundred and eighty, and the Company may enter upon, take, and use such of the lands delineated on the plans and described in the books of reference thereto deposited in the month of April one thousand eight hundred and eighty as may be required for such diverted portion of railway.

Gauge of
Railways.
9 & 10 Vict.
c. 57.

6. Notwithstanding anything contained in an Act passed in the ninth and tenth years of Her present Majesty, intituled "An Act for regulating the Gauge of Railways," the Company may make and maintain the railways on a gauge of three feet.

Deposit of
plans with
clerks of
unions.

7. With reference to this Act, all the provisions of sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, shall be read and construed as if the expression "clerks of the unions within which such parishes are included in Ireland," or the words "clerks of the unions," as the case may be, had been used and inserted in such sections in lieu of the expression "the postmasters of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmasters," as the case may be.

Capital.

8. The capital of the Company shall be one hundred and seventy thousand pounds, divided into seventeen thousand shares of ten pounds each, and such shares shall consist and be issued of the following classes:

- (a.) Baronial guaranteed shares, seventy-five thousand pounds, at five per centum per annum:
- (b.) Ordinary shares, ninety-five thousand pounds.

9. The Company shall not issue any share created under the authority of this Act, nor shall any such 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 is paid in respect thereof.

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Shares not to be issued until one fifth paid.

10. 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 four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Calls.

11. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Receipt in case of persons not sui juris.

12. For and during the period of thirty-three years after the opening of the railways for public traffic, the net receipts from the same, after deducting from the gross receipts the expenses for the management and working of the railways, and the moneys for the time being payable in respect of any debt or demand secured or created by mortgage or debenture stock of the Company, shall be applied to the payment of a dividend at the rate of five per cent. per annum on so much of the said sum of seventy-five thousand pounds baronial guaranteed shares as shall have been from time to time issued and paid up; and in the event of a total failure or partial insufficiency in any half year of such net receipts to pay such dividend as aforesaid, then the sums or amounts required to pay such dividend or to make up any deficiency therein shall be charged upon, payable by, and levied off the baronies in the proportions, and in the manner herein-after provided for, and the sums or amounts so levied off the baronies shall be applied for that purpose, and to no other purpose whatever.

Baronies to contribute for thirty-three years after opening.

13. For the purpose of ascertaining the sums (if any) which the baronies after the opening of the railway shall respectively pay as by this Act provided to be paid by them, and for the purpose of ascertaining the net receipts from the railways, and for other the purposes in this Act mentioned, the Board of Trade may, during such period as aforesaid, upon the request of the Company, from time to time, by warrant under the hand of their secretary for the time being, appoint as arbitrators the county surveyor acting for the time being in the county of Clare, and two other persons to be selected by the Board of Trade, and may supply the place of any such arbitrators dying or resigning, or refusing or failing or becoming incapacitated to act, and such arbitrators shall from time

Amount to be paid by baronies.

A.D. 1880. to time ascertain and determine the amount of the net receipts as prescribed by this Act in respect of the railways in each half year, and also any other matters which to them it may appear necessary to inquire into and determine upon in order to ascertain the amount which may be applicable to the payment of the said dividend upon the said baronial guaranteed shares as herein-before provided, and shall thereupon apportion and determine the amount of such half-yearly sums, if any, to be paid and made up by the baronies liable to pay the same, such arbitrators taking into consideration the benefit or supposed benefit, immediate or prospective, which such baronies may respectively in their opinion have derived or be likely to derive from the formation and opening of the railways, and the arbitrators shall set forth the several matters so ascertained and determined by them in a certificate in writing under their hands, or, in case all the said arbitrators shall be unable to agree, under the hands of any two of them, and every such certificate shall be in all respects final and binding on the said baronies; and from and immediately after the delivery of any such certificate to the secretary of the grand jury of the said county of Clare as by this Act directed, the baronies, and all lands, hereditaments, or premises therein respectively, shall be and the same are hereby charged and made chargeable with the payment of such half-yearly sums as shall be specified and set forth in every such certificate, and a copy of every such certificate shall be delivered to the Company, and the Company shall immediately thereon pay to such arbitrators their costs and expenses, and such remuneration for their trouble in regard thereto as the Board of Trade shall order and direct.

Repayment
by Company
of money
contributed
by baronies.

14. If and whenever in any half year there shall remain any surplus of the net receipts from the said railways (after deducting from the gross receipts the expenses of the management and working of the said railways, and the moneys for the time being payable in respect of any debt or demand secured or created by mortgage or debenture stock of the Company, and after deducting dividend at the rate of five per centum per annum upon the capital of the Company by this Act authorised, and at the time paid-up), and any money shall have been contributed by the baronies to the Company under this Act, such surplus shall be paid over by the Company to the treasurer of the said county until all moneys paid to the Company from the baronies, together with the costs and expenses of levying the same, shall have been repaid to such treasurer; and all moneys so paid to such treasurer shall be carried by him to the credit of the baronies in proportion to the amounts paid by them respectively under the provisions of this Act, and shall be applied

by him in reduction of the county cess payable by the baronies A.D. 1880.
respectively.

15. When and so soon as all moneys contributed from time to time by the baronies, together with the costs and expenses of levying the same, have been repaid to the treasurer of the said county, a certificate that such moneys have been so repaid shall be made in duplicate, and shall be signed by the secretary of the said grand jury, and one copy of such certificate shall be retained by the secretary at the office of the said grand jury, and one copy shall be deposited with and retained by the secretary or other officer of the Company, and the production of either copy shall be conclusive evidence that all moneys contributed by the baronies, together with the said costs and expenses pursuant to this Act up to the date of such certificate, have been repaid by the Company.

Evidence of
repayment
by Com-
pany.

16. For the purpose of ascertaining the receipts from the railways, and the expenses of the management and working thereof, and the sums, if any, applicable to the payment of the dividend as aforesaid, the Company shall from time to time, on or before the first day of May and the first day of November in every year, make out and render to the arbitrators full, true, and distinct accounts of all the receipts in the nature of revenue for the then preceding half-year ending the thirty-first day of December and the thirtieth day of June in each year arising in any manner from the undertaking, and of the expenditure thereof, which accounts the arbitrators shall and they are 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, upon the request of the said arbitrators, from time to time produce the same to such arbitrators for examination, and such arbitrators may, if they think fit, employ an actuary or accountant to assist them in such examination from time to time at the cost and expense of the Company; and the Company shall, so long as the barony contributions continue, keep proper and correct books of account to show the receipts and profits of the undertaking, and the expenditure thereof, to which books of account the arbitrators shall have at all reasonable times access, and from which they may at all times take extracts; and the Company shall during the said period send duplicate returns to the said arbitrators of the accounts which they are bound by any Act of Parliament now in force, or that may hereafter be in force,

Accounts of
receipts to
be rendered.

A D. 1880. to transmit to the clerks of the peace; and the arbitrators shall adjust and balance the accounts, and as to all matters relating to the said accounts, or what shall be considered as gross receipts from traffic, or net profits from traffic, their decision shall in all respects be final and conclusive on all parties.

Sums mentioned in certificates to be presented by grand jury and paid by county treasurer.

17. The arbitrators shall from time to time deliver the certificate by this Act directed to be prepared by them to the secretary of the grand jury of the county of Clare, who shall lay such certificate, or a copy thereof, before the grand jury at the assizes next after he shall have received the same; and it shall be lawful for the 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 the baronies, together with the costs and expenses of levying the same, to be raised and levied in like manner as any presentment made under the authority of an Act passed in the sixth and seventh years of the reign of His late Majesty King William the Fourth, chapter 116, and any Act or Acts amending the same; and the treasurer of such county, out of the first moneys collected and remaining in his hands after payment of Government advances, gaol expenses, and salaries of public officers payable by him, shall pay the sum so presented by the grand jury to the secretary of the Company, or in such manner as the Company shall direct; and if the grand jury shall fail to present the sum, or any part thereof, contained in any such certificate, together with the costs and expenses of levying the same, the treasurer of the county shall and he is hereby required to insert such sum, or such omitted part thereof, together with the costs and expenses of levying the same, in his warrant for raising the moneys presented at the same assizes, as if such sum had been duly presented by such grand jury to be raised and levied in manner hereinbefore mentioned off the baronies as aforesaid, and the same shall be raised and levied off the baronies accordingly as if the same had been so presented, and the said treasurer shall pay over the amount, when by him received as hereinbefore provided, as if such money had been presented by the grand jury: Provided always, that the amount of county cess levied from time to time under the provisions of this Act shall be distinctly specified in the receipts from time to time given to the persons respectively liable to pay and paying the same.

Tenants may deduct half the cess from the rent.

18. When any person occupying any lands, tenements, or hereditaments in any of the baronies, who has paid any county cess under the provisions of this Act, shall be liable to pay rent in respect of

such lands, tenements, or hereditaments, he may deduct from such rent, for each pound of the rent which he shall be liable so to pay, one half of the sum which he shall have paid as county cess under the provisions of this Act in respect of each pound of the net annual value of such lands, tenements, or hereditaments as valued under the Acts relating to the valuation of rateable property in Ireland, and so in proportion for any less sum than a pound: Provided always, that it shall not be lawful for any such person to deduct from the rent payable by him for such lands, tenements, or hereditaments a larger sum than one half of the amount of the county cess that has been paid by him in respect of the same under the provisions of this Act; and provided also, that no deduction shall be made from tithe rentcharge or other composition in lieu of tithes for or on account of any such county cess so paid as aforesaid.

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19. Whenever the net annual value of all the lands, tenements, or hereditaments situate in the baronies, or any of them, occupied by any person under any tenancy does not exceed four pounds so valued under the Acts relating to the valuation of rateable property in Ireland, and any grand jury cess is, under the provisions of this Act, leviable in respect of the said lands, tenements, and hereditaments, then such cess shall, after the passing of this Act, be paid and payable by the immediate lessor or lessors of such person, and may be recovered from such immediate lessor or lessors in like manner as, but for the provision of this section, it might have been recovered from the person occupying such lands, tenements, or hereditaments.

In case of premises valued at and under 4*l.* immediate lessors to pay county cess.

If any such cess payable by any such immediate lessor be not paid within four months after the same has become due, the person duly authorised to collect the same may give notice in writing to the occupier for the time being of such lands, tenements, or hereditaments to pay the cess due in respect of the same; and after the expiration of one calendar month from the time of giving such notice it shall be lawful to recover such cess from such occupier, or, on his default, from any subsequent occupier of the said lands, tenements, or hereditaments, in like manner as if the same were cess due in respect of lands, tenements, and hereditaments of a net annual value greater than four pounds.

And every such occupier so paying such cess may deduct from the rent he may be then or next thereafter liable to pay in respect of such lands, tenements, or hereditaments the whole of any such cess that he may have paid in respect of the same, and if rent

A.D. 1880. — sufficient to cover such cess be not then or do not thereafter become due from such occupier in respect thereof, he shall be entitled to recover the same from such immediate lessor by civil bill.

Sub-lessors may make proportionate reductions from superior landlord's rent.

20. When any moneys may be deducted on account of any county cess paid under the provisions of this Act from any rent payable to any person in respect of any lands, tenements, or hereditaments, and such person shall also pay a rent in respect of such lands, tenements, or hereditaments, he shall be entitled to deduct from the rent payable by him a sum bearing such a proportion to the amount of county cess deducted as aforesaid from the rent payable to him as the rent payable by him bears to the rent payable to him, not exceeding the half of the said county cess payable by him: Provided always, that no lessee or other person paying any county cess under this Act in respect of any lands, hereditaments, or premises held by him for lives renewable for ever, or for the residue of any term of years which when originally created shall have been not less than nine hundred years, shall deduct any portion of such county cess from the rent payable by him in respect of such lands, hereditaments, or premises; and provided also, that no deduction in respect of county cess paid under the provisions of this Act shall be made from any rentcharge granted by way of jointure, or any other rentcharge or annuity granted, limited, or devised for a life or lives in being only, or for years determinable on a life or lives in being.

Receipt for rates to be taken in discharge.

21. In all cases a receipt for the county cess to be levied under the authority of this Act in respect of any lands, hereditaments, or premises shall be accepted by every person entitled to receive rent in respect of the same in lieu of such a portion of rent as the person tendering such receipt is hereby entitled to deduct from such rent by reason of his payment of the county cess for which such receipt shall be given: Provided always, that no deduction on account of any payment of county cess under this Act shall be held to be a discharge of any portion of any gale or quarterly or other payment of rent due from the person entitled to make such deduction so as to prejudice the right of any landlord to recover the possession of any lands, hereditaments, or premises by ejectment for nonpayment of rent thereof in any case where the remaining portion of such gale shall be unpaid; but it shall be lawful for such landlord to proceed for the recovery of such lands, hereditaments, or premises by ejectment as effectually as if the entire gale, quarterly or other payment of rent, out of which such deduction is hereby allowed had remained wholly due and unpaid.

22. After the expiration of thirty-three years from the opening of the railways, or any part of the railways, for public traffic, the liability of the baronies to contribute any moneys for the purposes of this Act shall cease and determine, and the baronial guaranteed shares for seventy-five thousand pounds, or such part of them as shall have been issued, shall thereupon become preference shares in the capital of the Company, entitled to a preferential dividend of five per cent. out of the profits of each year.

A.D. 1880.
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Cessation of
guarantee.

23. In all cases where any moneys are under the provisions of this Act made payable by the Company to the treasurer for the time being of the said county, such treasurer, in default of payment thereof by the Company, may recover the same, with full costs of suit, by action in any court of competent jurisdiction; and in any such action such treasurer shall be the nominal plaintiff, and as such entitled to sue on behalf of the county, and no such action shall abate or be discontinued by reason of the death, removal, or resignation of any such treasurer; and all moneys received or recovered by such treasurer under the provisions of this Act shall be carried by him to the credit of the baronies in proportion to the amounts paid by them respectively under the provisions of this Act, and shall be applied by him in reduction of the county cess payable by the baronies respectively.

Actions by
county
treasurer.

24. When and so soon as thirty-four thousand pounds, part of the capital of one hundred and seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, it shall be lawful for the Company to borrow on mortgage any sum not exceeding seventeen thousand pounds; and when the further sum of thirty-four thousand pounds, part of the said capital of one hundred and seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding seventeen thousand pounds; and when the further sum of thirty-four thousand pounds, part of the said capital of one hundred and seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding seventeen thousand pounds; and when the further sum of thirty-four thousand pounds, part of the said capital of one hundred and seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, to borrow on mortgage any further sum not exceeding seventeen thousand pounds; and when the further sum of thirty-four thousand pounds, being the remainder of the said capital of one hundred and seventy thousand pounds, shall have been issued and accepted, and one half thereof paid up, to borrow on mortgage

Power to
borrow on
mortgage.

A.D. 1880. — any further sum not exceeding seventeen thousand pounds ; but no part of any of the said five sums of seventeen thousand pounds each shall be borrowed until the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of the capital in respect of which the borrowing power is proposed to be exercised has been 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 persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, 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 shall be sufficient evidence thereof.

Appoint-
ment of a
receiver.

25. 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. 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 nine thousand pounds in the whole.

Debenture
stock.

26. 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 at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application
of moneys.

27. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First ordi-
nary meet-
ing.

28. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held twice in every year, in the months of March or April and September or October respectively, as the directors may appoint.

29. The number of directors shall be five, and two of such directors shall be elected by the shareholders, and such two directors are in this Act referred to as "elected directors;" and three of such directors shall be nominated by the grand jury of the county of Clare from time to time as by this Act provided, and such three directors are in this Act referred to as "nominated directors."

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Number of
directors.

30. The qualification of an elected director shall be the possession in his own right of not less than fifty shares, and the qualification of a nominated director shall be the ownership or occupation by such director of lands in any one of the baronies.

Qualifica-
tion of
directors.

31. The quorum of a meeting of directors shall be three.

Quorum.

32. James Fitzgerald Lombard and David Coffey shall be the first elected directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the elected directors appointed by this Act, or either of them, or may elect new elected directors or a new elected director to supply the place of the elected directors or director not continued in office, the elected directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall elect a person to supply the place of the elected director then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation Act, 1845, and this Act; and the person elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be a director until another person is elected in his stead in manner provided by the Companies Clauses Consolidation Act, 1845, and this Act.

First elected
directors.

33. At the end of the first year after the first ordinary meeting held after the passing of this Act, one of the elected directors, to be determined by lot among themselves unless they shall otherwise agree, shall go out of office, and at the end of the second and every succeeding year after such first ordinary meeting one of the elected directors, being the one who has been longest in office, shall go out of office, and the place of every such elected director retiring from office as aforesaid shall be supplied by the election of one qualified shareholder, as provided by the Companies Clauses Consolidation Act, 1845, and this Act; nevertheless the elected directors so retiring from office may be re-elected immediately or at

Rotation of
elected
directors.

A.D. 1880. any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new elected director. Any vacancy in the office of elected director caused otherwise than by going out of office by rotation as aforesaid shall be supplied by the remaining elected director appointing a duly qualified shareholder to fill up such vacancy.

Nominated
directors.

34. The Right Honourable Edward Donough Baron Inchiquin, Colonel Marcus Patterson, of Clifden House, Corofin, and Richard Stacpoole, of Eden Vale, Ennis, in the county of Clare, shall be the first nominated directors, and shall continue in office until the spring assizes for the county of Clare next after the passing of this Act.

At the spring assizes for the county of Clare next after the passing of this Act the grand jury of the said county shall, by writing under the hand of their foreman, appoint three persons, qualified as by this Act provided, to be nominated directors of the Company until the spring assizes for the said county which shall be held next after such appointment, and at every spring assizes for the said county thereafter, until all liability of the baronies to contribute to the payment of dividends on baronial guaranteed shares under this Act shall cease; and until all moneys due by the Company to the baronies, or any of them, in respect of such contributions, shall have been repaid to the treasurer of the said county of Clare as by this Act provided, the grand jury of the said county of Clare shall in manner aforesaid appoint three persons, qualified as by this Act provided, to be nominated directors of the Company until the spring assizes for the said county which shall be held next after such appointment. Every such appointment by the said grand jury at each spring assizes shall be made as soon as may be after their first meeting for the discharge of the fiscal business at such assizes by the majority of the members of the said grand jury then present and voting.

Provided always, that in case of an equal division of votes the foreman shall have a casting vote in addition to his vote as a member of such grand jury.

Notice of the appointment of nominated directors by the said grand jury shall from time to time be sent by the secretary of the said grand jury to the secretary of the Company.

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the election, qualification, disqualification, retirement from office, and rotation of directors, shall not apply to the nominated directors under this Act.

The nominated directors under this Act shall in all respects, except as aforesaid, have the same powers, privileges, and emoluments, if any, and be subject to the same regulations and provisions, as if they had been elected by the shareholders of the Company agreeably to the provisions of the Companies Clauses Consolidation Act, 1845, and this Act.

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35. If any nominated director at any time subsequently to his appointment accepts or continues to hold any other office or place of trust or profit under the Company, or is either directly or indirectly concerned in any contract with the Company, or participates in any manner in the profits of any work to be done for the Company, then in any of the cases aforesaid the office of such nominated director shall become vacant, and thenceforth he shall cease from voting or acting as a nominated director.

Cases in which office of nominated director shall become vacant.

Provided always, that no person being a shareholder or member of any incorporated joint stock company shall be disqualified or prevented from acting as a nominated director by reason of any contract entered into between such joint stock company and the Company incorporated by this Act, but no such nominated director being a shareholder or member of such joint stock company shall vote on any question as to any contract with such joint stock company.

If any nominated director, after his appointment and before the spring assizes next thereafter, die or resign, or become disqualified or incompetent to act as a nominated director, or cease to be a director by any other cause, the remaining nominated directors, if they think proper so to do, may appoint in his place some person, qualified as by this Act provided, to be a nominated director, and the person so appointed to fill up any such vacancy shall, in virtue of such appointment, continue in office as a nominated director until the spring assizes for the county of Clare next after such appointment, and shall for the purposes of this Act be deemed to have been appointed by the said grand jury in accordance with the provisions of this Act.

36. 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 six acres.

Lands for extraordinary purposes.

37. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for compulsory purchase of lands.

38. Subject to the provisions in the Railways Clauses Consolidation Act, 1845, and in Part I. (relating to the construction of a

Power to cross certain roads on the level.

[Ch. ccxi.] *Ennis and West Clare Railway* [43 & 44 VICT.]
Act, 1880.

A.D. 1880.

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 herein-after mentioned ; (that is to say,)

Number on deposited Plans.	Townland.	Parish.	Description of Road.
5	Ballymaquiggin -	Templemaley -	Public.
19	Ballygriffy, South -	Dysert -	Public.
11	Kilkee, East -	Ruan -	Public.
25	Kilkee, West -	Ruan -	Public.
52	Killeen -	Rath -	Public.
(Road between properties 2 and 6.)	Ballykinnacora, South.	Rath -	Public.
8	Roxton -	Rath -	Public.
20	Lehinch -	Kilmanaheen -	Public.
77	Lehinch -	Kilmanaheen -	Public.

Inclination of roads.

39. In altering for the purposes of this Act the road next herein-after mentioned, the Company may make the same of any inclination not steeper than the inclination herein-after mentioned in connexion therewith ; (that is to say,)

No. on deposited Plans.	Townland.	Parish.	Description of Road.	Intended Inclination.
7	Lehinch -	Kilmanaheen	Public -	1 in 18 on one side of the bridge, and level to the existing road on the other side.

Height and span of bridge.

40. The Company may make the arch of the bridge for carrying the railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned in connexion therewith respectively ; (that is to say,)

No. on deposited Plans.	Parish.	Description of Road.	Height.	Span.
4	Drumcliff -	Public -	12 feet -	20 feet.

41. The Company may, with the consent of any limited owner, pay any purchase money payable to such limited owner in respect of any lands purchased or taken under the authority of this Act by the issue to such limited owner of as many shares in the capital of the Company as shall be equal in nominal amount to such purchase money, and such shares shall be deemed to be shares fully paid up. Such shares shall be held upon the like uses, trusts, and for the same purposes and in the same manner as the lands in respect of the purchase money for which such shares were issued stood settled. The Company shall, with respect to such shares, make an entry or memorial in their registry of shareholders of the uses, trusts, and purposes aforesaid, and, subject to the uses, trusts, and purposes affecting such shares, the limited owner for the time being in respect thereof shall have all the other rights and powers of a shareholder in the Company; provided always, that the Company shall not be bound to see to the application of any dividend received by such limited owner. The term "limited owner" in this section and in the following 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. Provided also, that no such payment by shares to a limited owner under this section shall be made until a certificate approving thereof shall have been granted by an inspecting engineer or engineers or other person or persons to be for such purpose nominated and appointed by the Commissioners of Public Works in Ireland, who are hereby authorised, on the application of any such owner or of the Company, to make such appointment, and the costs relating to such nomination and appointment, inspection and certificate, shall be paid by the Company as the Commissioners shall direct.

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—
Payment of
purchase
money to
limited
owners
in shares
in certain
cases.

42. It shall be lawful for the limited owner (as herein-before defined) of any land which the Company are authorised to take for the purposes of the railway or works which they are authorised to construct to grant, transfer, or convey the same, or any portion thereof, to the Company, free of cost; and such grant, transfer, or conveyance shall confer a good title to the lands described therein: Provided always, that no such grant, transfer, or conveyance by a limited owner under this section shall be made until a certificate approving thereof shall have been granted by an inspecting engineer or engineers or other person or persons to be for such purpose nominated and appointed by the Commissioners of Public Works in Ireland, who are hereby authorised, on the application of any such limited owner or of the Company, to make such appoint-

Limited
owners of
land may
grant same,
free of cost,
to the Com-
pany, with
consent of
Commis-
sioners of
Public
Works.

A.D. 1880. — ment; and the costs relating to such nomination and appointment, inspection and certificate, shall be paid by the Company as the Commissioners shall direct.

Power to take easements, &c. by agreement.

43. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, 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.

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

44. Whereas, pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of six thousand four hundred and twenty-three pounds Consolidated Three per Cent. Annuities, being equal to five per cent. upon the amount of the estimate in respect of the railways authorised by this Act, has been deposited with the Chancery Division of the High Court of Justice in Ireland (herein-after referred to as the Court) in respect of the application to Parliament for this Act, which sum is referred to in this Act as the deposit fund: Be it enacted, that, notwithstanding anything contained in the said recited Act, the 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 hereby authorised to be made, open the said railway for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the said railway for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade specifying the length of the portion of the said railway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the said railway so opened bears to the entire length of the said railway hereby authorised, the Court shall, on the application of the depositors, order the said portion of the deposit fund so specified in the certificate as aforesaid to be paid or transferred to them, or as they shall direct, and the certificate of the Board of Trade shall, if

signed by the secretary or by an assistant secretary of the said Board, be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the recited Act to the contrary notwithstanding. A.D. 1880.

45. If the Company do not, previously to the expiration of the period limited by this Act for the completion of the railway hereby authorised to be made, complete the said railway, 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, or any sum of money recovered by way of penalty 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 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 may seem fit; and if no such compensation shall be payable, or if a portion of the deposit fund shall have 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 either be forfeited to Her Majesty, and shall accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the Solicitor to Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof; provided that until the deposit fund 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 depositors. Application
of deposit.

46. If the railways are not completed within five years from the passing of this Act, then on the expiration of that period the Period for
completion
of works.

A.D. 1880. powers by this Act granted to the Company for making and completing the railways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Tolls.

47. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

In respect of passengers and animals conveyed on the railway:

For any person conveyed in or upon any carriage, a sum not exceeding twopence per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum not exceeding one penny per mile:

Class I. For every horse, mule, ass, or other beast of draught or burden conveyed in or upon any carriage, a sum not exceeding fourpence per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum not exceeding one penny per mile:

Class II. For every ox, cow, bull, or head of neat cattle conveyed in or upon any carriage, a sum not exceeding twopence per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum not exceeding one penny per mile:

Class III. For every calf or pig, sheep or lamb, dog, or other small animal conveyed in or upon any carriage, a sum not exceeding one penny per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum not exceeding one halfpenny per mile.

In respect of goods conveyed on the railways:

Class IV. For all coal, slack, cannel, dung, compost, and all sorts of manure, lime, and limestone, and all undressed materials for the repair of public roads and highways, per ton per mile not exceeding one penny; and if conveyed in or upon any carriage belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny:

Class V. For all coke, culm, charcoal, and cinders, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, ironstone, iron ore, pig iron, sheet iron, bar iron, rod iron, hoop iron, plates of iron, slabs, billets, and rolled iron, and all other similar descriptions of wrought iron, and iron castings not manufactured into utensils or other articles of merchandise, salt, sand, fireclay, slag, and stone, or other articles of merchandise, per ton per mile not exceeding twopence; and if conveyed in or upon any carriage belonging to

the Company, an additional sum per ton per mile not exceeding one halfpenny : A.D. 1880.

Class VI. For all sugar, grain, corn, straw, flour, meal, potatoes, hides, dyewoods, earthenware, tow, timber, staves, and deals, nails, metals (except iron), anvils, vices, and chains, per ton per mile not exceeding twopence halfpenny ; and if conveyed in or upon any carriage belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny :

Class VII. For all cotton, flax, linen, and linen or cotton yarns, and wools, drugs (except vitriol), manufactured goods, and metals (except iron and tin), and all other wares, merchandise, fish, articles, matters, or things, per ton per mile not exceeding threepence halfpenny ; and if conveyed in or upon any carriage belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny :

Class VIII. For every carriage, of whatever description, and not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform not belonging to the Company, a sum not exceeding fivepence per mile ; and if any such carriage be conveyed on a truck or platform provided by the Company, an additional sum not exceeding twopence per mile, and for every additional quarter of a ton or fractional part of a quarter of a ton above one ton which any such carriage may weigh, a further sum not exceeding twopence per mile.

48. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken. Tolls for propelling power.

49. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act ; (that is to say,) Regulations as to tolls.

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles the Company may demand tolls and charges as for four miles :

For a fraction of a mile beyond four miles, or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the numbers of quarters of a mile contained therein, and if there

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be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile, and in respect of passengers every fraction of a mile beyond an integral number of miles shall be deemed a mile :

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton :

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight :

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and in proportion for any smaller quantity.

Tolls for
small parcels and
single
articles of
great weight.

50. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following ; (that is to say,)

For the carriage of small parcels on the railway :

For any parcel not exceeding seven pounds in weight, threepence ;

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 in weight the Company may demand any sum which they may think fit :

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway :

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which with the carriage shall exceed four tons but shall not exceed eight tons, the Company may demand any sum as they from time to time think fit, not exceeding one shilling per ton per mile ; and if conveyed in or upon any carriage belonging to the Company, an additional sum per ton per mile not exceeding sixpence :

For the carriage of one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which with the carriage exceeds eight tons, or which on account of the length thereof may require more than one carriage, the Company may demand such sum as they think fit. A.D. 1880.

51. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

Maximum rates for passengers.

For every passenger conveyed in a first-class carriage, the sum of threepence per mile :

For every passenger conveyed in a second-class carriage, the sum of twopence per mile :

For every passenger conveyed in a third-class carriage, the sum of one penny per mile.

52. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance, except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection and any other service incidental to the business or duty of a carrier where any such service is performed by the Company, shall not exceed the following sums ; (that is to say,)

Maximum rates for animals and goods.

For every horse or other animal mentioned under Class I., fourpence per mile :

For every animal mentioned under Class II., threepence per mile :

For every animal mentioned under Class III., one penny halfpenny per mile :

For all articles and things mentioned under Class IV., one penny halfpenny per ton per mile :

For all articles and things mentioned under Class V., not exceeding twopence halfpenny per ton per mile :

For everything mentioned under Class VI., not exceeding threepence per ton per mile :

For everything mentioned under Class VII., not exceeding fourpence per ton per mile :

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For any carriage mentioned under Class VIII., not weighing more than one ton, not exceeding sevenpence per mile, and if weighing more than one ton, for every quarter of a ton or fractional part of a quarter of a ton beyond one ton not exceeding one penny halfpenny per mile.

Passengers
luggage.

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

Terminal
station.

54. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Foregoing
charges not
to apply to
special trains.

55. 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 and goods upon the railway.

Company
may take
increased
charges by
agreement.

56. Nothing in this Act shall prevent the Company from taking any increased charges, over and above the charges by this Act limited, for the conveyance of animals or goods of any description, by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect of the conveyance of animals or goods (other than small parcels) by passenger trains.

Saving
rights of
the Crown
in the fore-
shore.

57. Nothing contained in this Act 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 right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give), neither shall anything in this Act 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 Queen's Majesty, her heirs or successors.

58. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend 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.

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Interest not to be paid on calls paid up.

59. 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.

60. Nothing in this Act contained shall exempt the Company or railway from the provisions of any general Act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this Act.

Provision as to general Railway Acts.

61. 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.

Expenses of Act.

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