



ANNO DECIMO SEPTIMO & DECIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. cxlii.

An Act to amend the *Tralee and Killarney Railway Act, 1853.* [10th July 1854.]

WHEREAS by "The *Tralee and Killarney Railway Act, 1853,*" a Company was incorporated for making a Railway from *Tralee* to *Killarney* in the County of *Kerry*, called the *Tralee and Killarney Railway Company*: And whereas the Powers of the said Act have not been put into operation, nor have the said Company held any General Meeting, as required by such Act, and it is expedient that the Powers of the same should be revived, and that certain Provisions thereof should be repealed, and other Provisions enacted in lieu thereof: And whereas by the said Act the said Company were authorized to be amalgamated with the *Killarney Junction Railway Company*, or to sell or lease their Undertaking to such Company, upon such Terms as should be agreed upon: And whereas by "The *Killarney Junction Railway Act, 1851,*" in consideration of the Advantage and Improvement which the Construction of the Railway by that Act authorized would be to the Counties of *Kerry* and *Cork*, by tending to lessen the Amount of Poor's Rates by affording increased Employment, several Baronies and Half Baronies in the said Counties were required to guarantee the Payment of Interest

16 & 17 Vict.
c. clxxxix.

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terest on Loans for the Purposes of the *Killarney Junction* Railway, in certain Events, in the said Act also mentioned: And whereas the said *Killarney Junction* Railway Company are willing to release such Baronies and Half Baronies from the Payment of Interest in respect to such Loans required for the Purposes of the said *Killarney Junction* Railway, and it is expedient that the said Baronies and Half Baronies should be released accordingly: And whereas the Construction of the said *Tralee and Killarney* Railway will contribute to the Advantage and Improvement of the County of *Kerry*, and will tend to lessen the Amount of Poor's Rates therein, by affording increased Employment; and it is therefore expedient that the several Baronies of the County of *Kerry* should, to the Extent herein-after mentioned, pay or contribute towards the Payment of the Interest of any Moneys to be borrowed to complete such Railway, under the Provisions of the said first-recited Act: And whereas the Objects aforesaid 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, as follows:

Short Title.

I. That in citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression "The *Tralee and Killarney* Railway Act, 1854."

Interpretation of Terms.

II. That in this Act wherever the Words "the Company" are used the same shall mean "The *Tralee and Killarney* Railway Company," unless there be something in the Subject or Context repugnant to such Construction.

Certain Provisions of 16 & 17 Vict. c. clxxxix. repealed.

III. That so much of the *Tralee and Killarney* Railway Act, 1853, as enacts that Sir *Edward McDonnell* Knight, *John Pennefather*, *George Roe*, *Simeon Hardy*, and *William Hartigan Barrington*, Esquires, should be the Directors of the Company until the First General Meeting of the Company, and also so much of the same Act as enacts that the Directors appointed by the said Act, or such of them as should not die, or resign, or become disqualified, or be removed, should continue in Office until the First General Meeting to be held after the passing of such Act, and at such Meeting the Shareholders present, personally or by Proxy, might continue in Office the Directors appointed by such Act, or any Number of them, or might elect new Directors to supply the Places of those not continued in Office, the Directors appointed by the said Act being eligible to be re-elected, shall be and the same is hereby repealed.

IV. That

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IV. That the First General Meeting of the Company shall be held within Six Months next after the passing of this Act.

First General Meeting.

V. That the Number of Directors to be appointed at the General Meeting to be held hereafter shall be Five, and the Qualification of a Director shall be the Possession in his own Right of Fifty Shares in the Undertaking.

Number and Qualification of Directors.

VI. That it shall be lawful for the Company from Time to Time to increase the Number of Directors, so that the same do not exceed Nine, and to reduce the same, provided that the reduced Number be not less than Three.

Power to vary Number of Directors.

VII. That *William Hartigan Barrington, Henry Birch, John Penefather, John Chute Neligan, and Henry Barry* shall be the Directors of the Company until the First General Meeting of the Company to be held after the passing of this Act.

Names of Directors.

VIII. That the Quorum of a Meeting of the Directors shall be Three.

Quorum of Directors.

IX. That the Directors appointed by this Act, or such of them as shall not die, or resign, or become disqualified, or be removed, shall continue in Office until the First General Meeting to be held after the passing of this Act, and at such Meeting the Shareholders present, personally or by Proxy, may continue in Office the Directors appointed by this Act, or any Number of them, or may elect new Directors to supply the Places of those not continued in Office, the Directors appointed by this Act being eligible to be re-elected; and at the First General Meeting to be held in every Year thereafter the Shareholders present, personally or by Proxy, shall elect Persons to supply the Place of the Directors then retiring from Office, agreeably to the Provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several Persons elected at any such Meeting, being neither removed, nor disqualified, nor having resigned, shall continue to be Directors until others are elected in their Stead, in the Manner provided by "The Companies Consolidation Act, 1845."

Election of Directors.

X. That it shall be lawful for the *Killarney Junction* Railway Company, with the Consent of the Shareholders thereof, at a General Meeting of such Company, in accordance with the Provisions of "The Companies Clauses Consolidation Act, 1845," and also with the Consent of all and every Mortgagee or Mortgagees or Bond Creditor or Creditors of the said Company to whom the Rates leviable off the Baronies or Portions of Baronies in the said *Killarney Junction* Railway Act, 1851, mentioned, have been granted, as Part Security, to release,
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Power to Killarney Junction Railway Company to release Baronies.

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at any Time after the passing of this Act, by Writing under their Common Seal, the said several Baronies and Portions of Baronies in the Counties of *Kerry* and *Cork* of and from all Assessments, Payments, Claims, Charges, Taxes, and Liabilities whatsoever under the Provisions of the said "*Killarney Junction Railway Act, 1851,*" and thereupon the said Baronies and Portions of Baronies shall be absolutely freed and discharged from all Charges or Liabilities whatsoever under the Provisions of the said Act.

Baronies to pay Interest on Loans in certain Events.

XI. That if any Moneys shall be borrowed by the Company under the Provisions of the said first-recited Act, and if the said several Baronies and Portions of Baronies in the Counties of *Kerry* and *Cork* shall have been released from all Assessments, Payments, Claims, Charges, Taxes, and Liabilities whatsoever, under the Provisions of the said "*Killarney Junction Railway Act, 1851,*" then a Sum equal to the half-yearly Interest on the Sum or Sums so borrowed and remaining unpaid, but not exceeding the Rate of Four Pounds *per Centum per Annum* on such Sum or Sums, shall (subject as herein-after mentioned) be paid half-yearly to the said Company by the several Baronies of *Magonihy, Dunkerron North, Dunkerron South, Iveragh, Glanerought, Trughenacmy, Corkaguiny, Clanmaurice, and Iraghticonnor,* all in the County of *Kerry,* rateably and in the Proportions to be ascertained as herein-after mentioned: Provided nevertheless, that if, after the said Railway or any Part thereof shall have been opened, there shall be any Profit arising from the said Railway in any Half Year (such Profit to be ascertained as herein-after mentioned), then the Amount thereof shall be deducted from the half-yearly Amount which would otherwise be payable by such Baronies; and if such Profit shall equal or exceed the Amount so to be paid, then no such Payment shall be made by such Baronies for such Half Year: Provided also, that if the Profit in any Half Year shall exceed the Amount of Interest payable by such Baronies, then the Amount of surplus Profit shall be deducted from the half-yearly Amount payable by such Baronies for the next subsequent Half Year: Provided further, that no Liability to any of such Payments shall attach to any of the said Baronies until the said Railway shall have been completed, and opened for public Traffic.

Board of Trade to appoint Arbitrators to determine Proportion to be paid by each Barony, &c.

XII. That for the Purpose of ascertaining the Proportions in which such Baronies shall pay the said Sum so to be paid half-yearly as aforesaid, and during such Time as the same shall be payable, it shall be lawful for the Board of Trade, (at or upon the Request of the said Company,) from Time to Time, by Warrant under the Hand of their Secretary for the Time being, to appoint as Arbitrators the County Surveyor for the Time being of the County of *Kerry,* and one other Person to be selected by the said Board of Trade, and one other
Person

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Person to be selected by the Company; and such Persons shall, by their Award in Writing, assess and determine the relative Proportions in which such Sum shall be paid and made up by the said several Baronies, such Arbitrators taking into consideration the Benefit or supposed Benefit (immediate or prospective) which such Baronies may in their Opinion be likely to derive from the Formation and opening of the said Railway; and the Award of such Arbitrators, under their Hands, or under the Hands of any Two of them (in case all the said Arbitrators shall be unable to agree), shall, when allowed by the said Board of Trade, by Writing under the Hand of their Secretary, to be indorsed upon the said Award, be in all respects final and binding on the said Baronies; and from and immediately after the Allowance of such Award by the said Board of Trade the said several Baronies, and all Lands, Tenements, and Hereditaments therein respectively, shall be and are hereby charged and made chargeable with the Payment of such Sum in the several Proportions specified and set forth in such Award; and after such Award shall have been allowed in manner aforesaid, the same, and such Duplicate thereof as may be necessary, shall be delivered to the Company, upon their Request, and upon Payment by them to the said Arbitrators of such Remuneration, if any, for his or their Trouble in making such Award, as the said Board of Trade shall determine.

XIII. That the Board of Trade shall and they are hereby authorized and required from Time to Time to appoint a fit and proper Person or fit and proper Persons, not exceeding Three in Number, as Auditor or Auditors to audit the Accounts of the said Company, and to make Certificates, in pursuance of the Directions herein-after contained; and it shall and may be lawful to and for the said Board of Trade from Time to Time to revoke the Appointment of such Auditor or Auditors, or any of them, and such Auditor or Auditors from Time to Time to remove, and his or their Powers and Authorities to revoke, and any other Person or Persons in the Place of such Person or Persons so displaced, or of any Person dying, to appoint, with the same Powers or Authorities; and the said Company shall pay to each of the Auditors so appointed such a Sum for his Trouble in making such Audit and in relation thereto as the said Board of Trade shall from Time to Time fix and determine.

Board of Trade to appoint Auditors of Company's Accounts.

XIV. That for the Purpose of ascertaining the Amount of net Profits (if any) of the said Railway the said Company shall from Time to Time and at all Times, and within One Calendar Month after the Thirtieth Day of *June* and the Thirty-first Day of *December* in every Year, make out or cause to be made out and rendered to the said Auditor or Auditors a full, true, and distinct Account of all the Receipts and Expenditure for the then preceding Half Year of and relating to the said Railway and every Part thereof, which Account

Company to keep Accounts of Profits.

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the said Auditor or Auditors shall and he or they is and are hereby authorized and empowered to examine with the Documents and Vouchers evidencing the same (which Documents and Vouchers, and all Books, Papers, and Accounts in the Custody or Control of the said Company relating to the Business of the said Company, shall, upon the Request of the said Auditor or Auditors, be forthwith produced by the said Company to such Auditor or Auditors, who shall be at liberty to examine the same); and for the Purpose of judging of the Accuracy of such Account such Auditor or Auditors shall and may and he and they is and are hereby empowered to examine all the Accounts of the said Company, which said Accounts, and the Vouchers relating to the same, the said Company are hereby directed to keep and produce during such Time as aforesaid as the said Auditor or Auditors shall direct; and such Auditor or Auditors shall adjust and balance such Accounts; and as to all other Matters relating to the said Accounts, or what shall be considered as Profit, their Decision shall in all respects be final and conclusive on all Parties.

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

XV. That, on the Completion of every half-yearly Audit, such Auditor or Auditors shall ascertain and determine whether the said Company have by themselves or otherwise for the preceding Half Year made such half-yearly Payments as by virtue of the Security or Securities for any such Loan or Loans the said Company shall be liable to pay, and shall ascertain and determine the Amount (if any) of Profit which shall appear on such Account to have been made during such Half Year.

Auditors to certify Sums payable by Baronies.

XVI. That after the said Railway shall have been completed and opened for public Traffic, when and as often as such Auditor or Auditors shall find that the said Company have made such Payments as aforesaid for the preceding Half Year, and not before, then he or they shall, by a Certificate under his or their Hand or Hands, certify the same, and also the Amount of Profit (if any) appearing on such Account as aforesaid, and after deducting such Profit (if any) from the Amount of the said half-yearly Payments of Two Pounds *per Centum*, or such other and lesser Sum as aforesaid, to be paid by such Baronies as aforesaid, the said Auditor or Auditors shall in such Certificate ascertain and state the proportionate Part of such Instalments which is to be raised and levied in each such Barony, such proportionate Parts to be ascertained and determined according to the several Proportions to be specified and set forth in the Award of the Arbitrator or Arbitrators, as herein-before mentioned: Provided nevertheless, that when and so often as the Profit on any such Account as aforesaid shall equal or exceed the said half-yearly Payment of Two Pounds *per Centum*, or such other and lesser Sum as aforesaid to be paid by such Baronies, then such Auditor or Auditors shall state the same in such Certificate, and that consequently for such Half Year no Payment is to be made in respect of such half-yearly Payments secured

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to be made by the said Baronies ; and every such Certificate shall be final and binding on all Parties : Provided also, that whenever in any Half Year the Amount of Profit shall not equal the Amount of Interest payable by such Baronies, the said Auditor or Auditors shall and he is or they are hereby required to take into account the surplus Profit (if any) of the next preceding Half Year, and to deduct from the Amount to be paid by such Baronies the Amount of such surplus Profit, and shall state in the said Certificate the Amount of surplus Profit so deducted.

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

Provisions with respect to Profit and Loss Account.

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

Auditors to deliver Certificate to Company.

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

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

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chargeable therewith as aforesaid, and the same shall be raised and levied off such Barony accordingly, as if the same had been so presented; and the said Treasurer shall pay over the Amount, when by him received, as herein-before provided, as if such Money had been presented by such Grand Jury.

Condition of Bonds by Collectors of Grand Jury Cess.

XX. That the Condition of every Bond of a Collector of Grand Jury Cess within the said County of *Kerry* to be hereafter given or executed by way of Security for duly collecting and paying Public Money shall contain a Condition for his duly collecting and paying to the Treasurer of such County, on or before each next succeeding Assizes, all such Money as he shall from Time to Time be authorized to levy under this Act, and such Bond shall be subject to all Provisions now applicable to Bonds given or executed by Collectors of Grand Jury Cess.

Remuneration to Collector to be presented by Grand Jury.

XXI. That the Grand Jury of the said County shall also present such Sum of Money to be levied off any such Barony as aforesaid, to be paid to any such Collector as aforesaid for his Remuneration in the Collection of such Assessment, as is payable in the Case of the Collection of Grand Jury Cess.

In a certain Event, the Baronies to be recompensed out of the Profits of the Undertaking.

XXII. That if at any Time before the Expiration of Twenty-three Years from the passing of this Act it shall appear to the said Auditor or Auditors that the net Profits of the Company in any Year ending on the Thirty-first Day of *December* within Five Years from any Period at which any such Payment as aforesaid shall have been made shall have amounted to such a Sum as to leave a Surplus after deducting a Sum sufficient to pay the Interest for that Year upon the then existing Mortgage or Bond Debt of the Company, and also after deducting a Sum sufficient for paying to the Shareholders a Dividend at the Rate of Four Pounds *per Centum per Annum* on the then paid-up Capital of the Company, the said Auditor or Auditors shall and he or they is or are hereby required forthwith to certify such Fact, by Writing under his or their Hand or Hands, stating the Amount of any such Surplus, to the Treasurer for the Time being of the said County, and thereupon the said Treasurer shall be entitled to receive from the Company the said Surplus to an Extent not exceeding the aggregate Amount of Payments made by the Baronies aforesaid since the passing of this Act; and if any Payment shall have been made under the Provisions of this Act by the said Baronies during the said Period of Twenty-three Years (but not otherwise) then, after the Expiration of the said Period of Twenty-three Years, whenever it shall appear to the said Auditor or Auditors that the net Profits of the Company in any Year ending on the Thirty-first Day of *December* shall have amounted to such a Sum as to leave a Surplus after deducting Five thousand Pounds for the Use of the Company, the said Auditor or

Auditors

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Auditors shall and he or they is or are hereby required to certify such last-mentioned Fact by Writing under his or their Hand or Hands, stating the Amount of any such last-mentioned Surplus, to the Treasurer for the Time being of the said County, and thereupon the said Treasurer shall be entitled to receive from the Company such Surplus to an Extent not exceeding the Sum of Two hundred Pounds, as a Rentcharge upon the Undertaking of the Company, and the said Treasurer shall apply the Sum so received by him in aid of the County Cess upon the Baronies aforesaid which shall have made such Payment, in such Proportion as the aggregate Amount which shall have been paid during the aforesaid Period by each Barony shall bear to the aggregate Amount which shall have been paid during the same Period by such Baronies aforesaid.

XXIII. That the Auditor or Auditors shall, within One Month from the Time at which he or they shall have certified as aforesaid to the Treasurer of the said County of *Kerry*, deliver to the said Treasurer a Certificate in Writing under his or their Hand or Hands, stating what Proportion of the said Surplus the Treasurer to whom such Certificate shall be given is (by virtue of the last preceding Enactment) entitled to receive; and the said Treasurer shall be entitled, on Demand, to receive from the Company the Amount mentioned in such Certificate, and in default of Payment on Demand to recover the same, with full Costs of Suit, by Action of Debt or on the Case in any Court of competent Jurisdiction; and in any such Action the Treasurer for the Time being of the said County shall be the nominal Plaintiff, and as such entitled to sue on behalf of the County for which he may be the Treasurer; and no such Proceeding shall abate or be discontinued by reason of the Death, Removal, or Resignation of such Treasurer, but shall continue and proceed in the Name of any Treasurer from Time to Time appointed in the Stead of any such Treasurer who may die, be removed from or resign his Office, upon entering a Suggestion for that Purpose, by Leave of the Court in which any such Proceeding may be pending.

Auditors to deliver a Certificate to the Treasurer of the County of Kerry, stating what Proportion of the Surplus such Treasurer is entitled to receive.

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

No Payments to be made by the Baronies after the Expiration of 23 Years from the passing of this Act.

XXV. That it shall not be lawful for the Company, out of any Money by this Act or any other Act relating to the Company authorized to be raised for the Purposes of such Act or Acts, to pay or deposit any Sum of Money which, by any Standing Order of either House of Parliament, now in force or hereafter to be in force, may

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

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be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining any Act authorizing the Company to construct any other Railway or to execute any other Work or Undertaking.

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

XXVI. And whereas an Act was passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway*; and another Act was passed in the Fourth Year of the Reign of Her present Majesty, intituled *An Act for regulating Railways*; and another Act was passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*; and another Act was passed in the Eighth Year of the Reign of Her present Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways*; and another Act was passed in the Tenth Year of the Reign of Her present Majesty, intituled *An Act for regulating the Gauge of Railways*; and another Act was passed in the Fifteenth Year of the Reign of Her present Majesty, intituled *An Act to repeal the Act for constituting Commissioners of Railways*: Be it enacted, That nothing in this Act contained shall be held to exempt the Railway or the Company from the Provisions of such several Acts respectively, but such Provisions shall be in force in respect to the Railway and the Company, so far as the same are applicable thereto.

Railway, &c.
not exempt
from Provi-
sions of
future Gene-
ral Acts.

XXVII. That this Act or anything therein contained shall not exempt the Company or the Railway from the Provisions of any General Act relating to this Act, or of any General Act relating to Railways, or to the better and more impartial Audit of the Accounts of Railway Companies, now in force or which may hereafter pass during this or any future Session of Parliament, or from any future Revision and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges by this Act authorized, or of the Rates for small Parcels.

Expenses of
Act.

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

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