CHAP. 114.

An Act to amend the Law relating to the Abandonment of Railways and the Dissolution of Railway Companies. A.D. 1869.

[11th August 1869.]

WHEREAS by the provisions of The Abandonment of Railways Act, 1850, as revived and amended by The Railway Companies (Scotland) Act, 1867, and The Railway Companies Act, 1867, a railway company may if their whole railway is authorized to be abandoned be wound up under The Companies Act, 1862; and doubts have arisen whether such company can be so wound up on the petition of a creditor or of any person except a shareholder, and it is expedient to remove such doubts and otherwise to amend the said Acts:

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 Abandonment of Railways Act, 1869.

Interpretation.

2. In this Act "the court" means the High Court of Chancery in England, the Court of Chancery in Ireland, or the Court of Session in Scotland, according as the railway was authorized to be made in England, Ireland, or Scotland respectively.

Construction of Act. 13 & 14 Vict. c. 83. 30 & 31 Vict. cc. 126, 127.

3. This Act shall be construed as one, so far as it extends to Scotland, with "The Abandonment of Railways Act, 1850," as amended by "The Railway Companies (Scotland) Act, 1867," and so far as it extends to England or Ireland with "The Abandonment of Railways Act, 1850," as amended by "The Railway Companies Act, 1867," and those Acts are in this Act referred to as the principal Acts.

Petition for winding up

4. Where a warrant has been granted under the principal Acts for the abandonment of the whole railway of any railway company

A.D. 1869.

of railway company may be presented under 25 & 26 Vict. c. 89. and 30 & 31 Vict. c. 131.

a petition for winding up the affairs of such company may be presented under The Companies Acts, 1862 and 1867, by the company, or by any person who under the last-mentioned Acts is authorized to present a petition for winding up a company, or by any person upon whose application the Board of Trade may proceed in pursuance of section thirty-two of The Railway Companies (Scotland) Act, 1867, and The Railway Companies Act, 1867, as the case may be, and for that purpose the railway company whose railway is so authorized to be abandoned shall be deemed to be an unregistered company which may be wound up under The Companies Acts, 1862 and 1867, and the provisions of the principal Acts which remain in force relating to winding up shall be construed as if The Companies Acts, 1862 and 1867, and the winding-up provided by this section, were therein referred to.

Application of deposit, &c.

5. If the warrant for the abandonment was made on condition that the money deposited as security for the completion of the railway, or the stocks, funds, or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway, or for payment of money in default thereof, should be applied as part of the assets of the company, the court may, if it think fit, direct that such money, stocks, funds, and securities shall not be applicable for the payment of any debt or part of a debt which, regard being had to what is fair and reasonable as between all the parties interested under all the circumstances of the case, appears to the court to have been incurred on account of the promotion of the company.

Any person who provided such money or any part thereof, or who entered into such bond, may, subject to any directions or rules of the court, attend all proceedings under this section and other proceedings in the winding-up, and apply to the court to act under this section.

Transfer of deposit and assignment of bond.

6. Where the warrant for abandonment is made on condition that the money deposited as security for the completion of the railway, or the stocks, funds, or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway or for payment of money in default thereof, shall be applied as part of the assets of the company, the following provisions shall have effect:

(1.) The court in which the company is being wound up may order such money, stocks, funds, or securities, or so much thereof as is required to be applied as assets of the company, to be paid, transferred, or delivered out to the official

liquidator, and unless the court is satisfied that the same or any part thereof are not required to be applied as assets, shall not order the same or any part thereof to be paid, transferred, or delivered out to any other person:

(2.) The Commissioners of Her Majesty's Treasury, upon the application of the official liquidator, made with the sanction of the court, may, if they think fit, assign the bond to the official liquidator, and upon such assignment the bond shall be deemed to have been entered into with the official liquidator in his official name, and with his successors in that office, and may, subject to the sanction of the court, be enforced accordingly:

(3.) Any bond so assigned may, after a sufficient sum has been paid thereunder as assets of the company, be cancelled by the court.

Saving for rights to residue of deposit.

7. Nothing in the principal Acts or in this Act shall affect any right to that part of the money deposited as security for the completion of the railway, or of the stocks, funds, or securities on which the same is invested, or of the money secured by any bond conditioned for the completion of the railway, which is not applied in payment of the debts and liabilities of the company, or required for that purpose.

Application for abandonment by judgment creditor.

8. Where a company, no part of the railway of which is open for traffic, has been required by any judgment or order of any court to pay a sum of money to any person or body corporate, and has made default in such payment, the Board of Trade may proceed under the principal Acts, upon the application of such person or body, in the same manner as if such person or body were mentioned in that behalf in the said section.

Notices under sect. 17 of 13 & 14 Vict. c. 83.

9. The notice given in pursuance of section seventeen of The Abandonment of Railways Act, 1850, may, where there is no secretary of the company, or no office of the company, require claims or demands to be sent to such person or to such place as the Board of Trade direct.

Repeal of winding-up sections of 13 & 14 Vict. c. 83.

10. Section twenty-nine of The Abandonment of Railways Act, 1850, from "and they shall accordingly" to the end of that section, and sections thirty, thirty-one, thirty-two, and thirty-three of The Abandonment of Railways Act, 1850, and so much of section thirty-one of The Railway Companies (Scotland) Act, 1867, and of The Railway Companies Act, 1867, respectively, as amends the said sections, are hereby repealed, without prejudice to anything

A.D. 1869.

already done thereunder; and all proceedings commenced in pursuance of those sections shall be continued under the provisions of this Act.

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