ANNO VICESIMO TERTIO

VICTORIÆ REGINÆ.

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Cap. xxix.

An Act for more effectually carrying out the Clearing House System in *Ireland*, and for facilitating legal Proceedings in relation thereto.

[15th *May* 1860.]

WHEREAS for some Time past Arrangements have subsisted between several Railway, Canal, and Steam Packet Companies and public Carriers in *Ireland* for facilitating the Transmission of the Through Traffic in Passengers, Animals, Minerals, Goods, and all other Descriptions of Traffic passing over and upon Railways, Canals, and Steam Packets belonging to different Companies, for the Purpose of affording in respect to such Passengers, Animals, Minerals, Goods, and such other Traffic the same or the like Facilities of Through Booking and Charges, and otherwise, as if such Railways, Canals, and Steam Packets had belonged to One Company, and for the Settlement of the Accounts of the Receipts for Through Traffic in which Two or more Companies or Parties are interested, and of the Accounts arising out of the Use by a Company or other Party of the carrying Stock belonging to other Companies or Parties, and for the Audit and Adjustment of such Traffic Accounts of Companies or Parties as may be submitted to the Clearing House for that Purpose, which Arrangements are conducted under the Control and Superintendence of a Committee appointed by the several Railway, Canal, and Steam Packet and other Companies, and

Persons who are Parties thereto, which Committee is in this Act designated "the Committee" and the Business of such Committee has heretofore been and is now carried on under the Name or Style of the *Irish* Railway Clearing House (herein-after designated "the Clearing House") in *Dawson Street* in the City of *Dublin:* And whereas the aforesaid Arrangements have been productive of great Convenience to the Public and to the Parties thereto, and a considerable Saving of Expense in the Transmission of Passengers, Animals, Minerals, Goods, and other Traffic over and upon the Railways, Canals, and Steam Packets belonging to such Parties: And whereas Difficulties have arisen in carrying the Objects of the Clearing House into effect in consequence of the Committee not possessing the Power of prosecuting or defending Actions or Suits, or taking other legal Proceedings, and it is therefore expedient to remove such Difficulties, and to extend and improve the Clearing House System and the Proceedings connected therewith; but the Purposes 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, and by the Authority of the same, as follows:

Parties to the Clearing House to be subject to the Provisions of this Act.

I. The several Companies, Corporations, Partnerships, and Persons who at the Time of the passing of this Act are Parties to the Clearing House shall be subject to the Provisions of this Act, and all such Companies, Corporations, Partnerships, and Persons as shall respectively become, in manner herein-after mentioned, Parties to the Clearing House, shall be subject to the like Provisions; (that is to say,) every other Company, Corporation, Partnership, and Person who now is or are or hereafter may be engaged, or is or are or may be empowered to be engaged, either solely or in conjunction with any other Business, in the Business of carrying Passengers, Animals, Minerals, Goods, and moveable Chattels and Effects of whatever kind, or any of them, by Land and Water, or by Land or by Water, to or from any Part of Parts of *Ireland*, and all Persons who shall be engaged in any such carrying Business as aforesaid as Lessees of or Contractors, with any such Company, Corporation, Partnership, or Person.

Other Parties may join with Assent of Committee.

II. If any Company, Corporation, Partnership, or Person who may not be a Party to the Clearing House shall, by Writing sealed with the Common Seal of any such Company or Corporation, or under the Hand of any such Partnership or Person, request the Committee to be admitted a Party to the Clearing House, and the Committee shall assent to such Request, such Company, Corporation, Partnership, or Person shall from the Time of such Assent being given, or at such other Time as may be specified in the said Request, become a Party to the Clearing House.

III. If

Parties may retire on giving Notice.

III. If any Party to the Clearing House shall desire to retire therefrom, or cease to be a Party thereto, and shall give Notice thereof in Writing to the Committee, such Party shall, at the Expiration of Three Calendar Months from the Time when such Notice shall be given, or if a more distant Time shall be stated in such Notice then at the Time so stated, cease to be a Party to the Clearing House: Provided always, that such Notice shall, in the Case of a Company or Corporation, be sealed with the Common Seal of such Company or Corporation, and in the Case of a Partnership to be under the Hands of at least Two Copartners; provided also, that such Party shall have paid and discharged all Sums due by such Party to the Committee.

Committee may give Parties Notice to retire.

IV. If not less than Two Thirds of the Committee present at a Meeting specially summoned shall, by Writing signed by their Secretary or by Two Members of the Committee, give Notice to any Company, Corporation, Partnership, or Person that they or he, as the Case may be, shall cease to be a Party to the Clearing House at a Time named in such Notice, not being less than One Calendar Month from the Time of giving such Notice, such Company, Corporation, Partnership, or Person shall, at the Time so named, cease to be a Party to the Clearing House.

Appointment of the Committee.

V. Subject to the Provisions herein-after contained, the Committee shall consist of Delegates appointed by Parties to the Clearing House only, and shall be composed in the Manner following; (that is to say,) each Company or Corporation shall appoint a Delegate being a Director of such Company or Member of such Corporation, each Partnership shall appoint One of its Members to be a Delegate, and each Person may appoint himself or another as a Delegate, such Appointment, in the Case of a Company or Corporation, to be under Seal, and in the Case of a Partnership to be under the Hands of at least Two Copartners, and in the Case of a Person to be under the Hand and Seal of such Person: Provided always, that any such Delegate may represent Two or more Parties on the Committee, but shall in no Case have more than One Vote; provided also, that the Acts of the Committee shall be valid and binding, notwithstanding the Absence of any such Delegate, or that any Company, Corporation, Partnership, or Person may happen to be unrepresented at any Meeting of the Committee.

Parties hereafter admitted may be represented on the Committee.

VI. No Company, Corporation, Partnership, or Person hereafter admitted a Party to the Clearing House shall be entitled to be represented on the Committee by a Delegate, unless the written Request to be so admitted shall specify that the Party Applicant desires to be so represented, and shall specify the Mode in which such Delegate is to be from Time to Time appointed and removed, and unless the Committee accept this Mode of Appointment or Removal as a proper one; and the Mode so specified

specified for appointing any such Delegate shall not be altered without the Consent of the Committee.

Evidence of Appointment.

VII. No Person claiming to be a Member of the Committee under an Appointment made after the passing of this Act shall be or shall be entitled to act as a Member thereof until the Committee have resolved that they are satisfied that such Member has been duly appointed, and the Decision of the Committee that such Member is duly appointed shall not only be Evidence of such due Appointment, but shall, until the Committee otherwise order, make such Person to be a Member of the Committee though in fact he is not duly appointed.

Committee.

VIII. Members of the Committee which at the Time of the passing of this Act carries on Business under the Name or Style of the *Irish* Railway Clearing House (in this Act designated "the Clearing House") in *Dawson Street* in the City of *Dublin* shall, without any further Appointment, be Members of the Committee under this Act.

Meetings of the Committee, *Quorum*, &c.

IX. The Committee shall meet once a Month, and at any other Times whereof the Secretary shall, at the written Request of the Chairman for the Time being or any Two Members of the Committee, give at least Ten Days Notice in Writing to every Company, Corporation, Partnership, and Person who may be Parties to the Clearing House, or to the Secretary of every such Company and Corporation, and every such Meeting may be adjourned from Time to Time as the Committee shall think fit; and Meetings and adjourned Meetings of the Committee shall be held at the Offices of the Clearing House in *Dawson Street* aforesaid, except when the Committee shall have appointed some other Place, and then at such other Place; and in order to constitute a Meeting of the Committee there shall be present at least Three Members, including the Chairman; and, except where otherwise provided, all Questions at every Meeting shall be determined by the Majority of Votes of the Committee present, and in case of an equal Division of Votes the Chairman of the Meeting shall have a Casting Vote in addition to his Vote as One of the Committee; and Notice of the Business to be brought before any Meeting shall, at least Three Days before the Day of such Meeting if the Meeting be an ordinary one, and at least Ten Days before the Day of such Meeting if it be a special one, be given to every Company, Corporation, Partnership, and Person who are Parties to the Clearing House, or the Secretary of every such Company and Corporation.

Appointment of the *Chairman*.

X. Until the First Meeting of the Committee, which shall be held after the passing of this Act, Sir *Edward McDonnel*, or other the Chairman of the Committee for the Time being, shall continue in Office; and at the First Meeting of the Committee which shall be held after the passing of this Act, and at the Meeting to be held in the Month of *January* in each succeeding

succeeding Year, the Members of the Committee present at the Meeting shall, if they think fit, either continue in Office the Chairman for the Time being, or choose another Chairman; and a General Meeting of the Committee specially summoned shall have Power to remove any Chairman; and if any Chairman shall die or resign or be removed, the Committee shall have Power as soon as may be to choose some other Person to fill the Vacancy thereby occasioned; but every Chairman elected to supply a Vacancy other than at the Meeting in the Month of *January* in any Year shall continue in Office so long only as the Person in whose Place he shall be so elected would have been entitled to continue if such Death, Resignation, or Removal had not happened: Provided always, that it shall not be necessary that the Person chosen as Chairman be a Delegate of any of the Companies, Corporations, Partnerships, or Persons, Parties to the Clearing House, but in case he shall not be a Delegate he shall not be entitled to vote on any Question, unless in the Case of an Equality of Votes, when he shall be entitled to give the Casting Vote.

In the Absence of the Chairman Committee to elect a Chairman.

XI. If at any Meeting of the Committee the Chairman shall not be present the Members of the Committee present shall choose One of their Number to be Chairman of such Meeting.

Sub-Committee and Meetings thereof.

XII. The Committee may appoint Sub-Committees consisting of such Number of Members of the Committee as they think fit, and shall fix the Quorum of such Sub-Committees, and may grant to such Sub-Committees Power to do any Acts relating to the Affairs of the Clearing House which the Committee could lawfully do, and may from Time to Time think proper to entrust to them; and all Questions at any Meeting of the Sub-Committees shall be determined by a Majority of the Votes of Members present, and in case of an equal Division of Votes the Chairman shall have a Casting Vote in addition to his Vote as a Member of such Sub-Committee: Provided always, that the Acts, Minutes, and Proceedings of the Sub-Committees shall from Time to Time be submitted to the Committee, but all such Acts Minutes, and Proceedings shall be held to be valid, and shall take effect, unless and until they are overruled by the Committee.

Chairman of Sub-Committee.

XIII. At every Meeting of any such Sub-Committee the Members thereof present shall appoint One of their Number to be Chairman of such Meeting, who shall be entitled to give One Vote as an ordinary Member, and in case of an Equality of Votes shall be entitled to give another Vote as the Casting Vote.

Appointment of Secretary.

XIV. *James Waller Elwin* shall be the Secretary to the Committee until his Death or Resignation or Removal, whichever shall first happen, and the Committee shall have the Power to remove him and all future Secretaries, and in the event of the Resignation or Death or Removal as aforesaid of any Secretary the Committee shall appoint a Secretary in his Stead.

As to Moneys received by Committee.

XV. Any Money which shall be received by the Committee shall be held by them as Trustees for the Party or Parties to whom the Committee shall decide such Money to be payable, but no Member of the Committee shall be answerable for any such Money as may be lost or withheld by reason of any Cause other than his own personal Misconduct.

Accounts to be settled and Balance ascertained and declared by the Committee.

XVI. The Accounts of the Clearing House, and the Balances due to and from the several Parties thereto, shall be settled and adjusted by the Secretary to the Committee for the Time being, which Secretary shall also settle and determine the Amount to be from Time to Time contributed to the Funds of the Clearing House by the Parties thereto; and in case of any Difference respecting such Accounts, the Decision of the Committee to the Effect that any Balance or Sum is payable by any Company, Corporation, Partnership, or Person, then or theretofore Party to the Clearing House, shall be final and conclusive; and so long as any such Balance or Sum which the Committee shall decide to be payable by any Party, or any Part thereof, shall not be paid, Interest shall accrue and be paid on the same at such Rate *per Centum per Annum*, not exceeding Seven Pounds *per Centum*, as the Committee shall from Time to Time determine, and such Sum or Balance, with Interest thereon as aforesaid, shall be a Debt due to the Committee.

Interest on Balances in arrear.

Expenses to be paid out of the Funds of the Clearing House.

XVII. The Committee shall out of the Funds of the Clearing House pay all the Expenses of the Clearing House, and all Costs, Charges, Damages, and Expenses which the Members of the Committee or Sub-Committee, or any or either of them, as such Members or Member, or which the Secretary as nominal Plaintiff or Defendant, or other Party on behalf of the Committee, may bear, sustain, or be put to; and the Members of the Committee and Secretary shall be completely indemnified and saved harmless out of the Funds of the Clearing House, and by the Parties thereto, of, from, and against all Actions, Suits, and Proceedings of any Sort, Costs, Charges, Damages, and Expenses, to which they or any of them may in any way be subjected as Members or Member of the Committee, or as Secretary to the Committee, by reason of anything which they or he may *bonâ fide* do or omit to do, whether such Deed or Omission be within their Powers or not.

Committee may sue for Balances or Sums due.

XVIII. The Committee may, by Action of Debt in the Name of their Secretary, in any Court of competent Jurisdiction in *Dublin*, *Westminster*, or *Edinburgh*, as the Case may be, recover from any Company, Corporation, Partnership, or Person any Balance or Sum, with Interest thereon, not exceeding the Rate of Seven Pounds *per Centum per Annum*, which the Committee shall decide to be payable by such Company, Corporation, Partnership, or Person, whether to any other Company, Corporation, Partnership, or Person, or on account of the Clearing House, and whether such Company, Corporation, Partnership, or Person be still at the Time

of

of such Decision or has then ceased to be a Party to the Clearing House, and whether such Sum or Balance and Interest shall or shall not have been previously ascertained by the Secretary to be payable.

Proof in case of Plea of never indebted.

XIX. If in any Action brought according to this Act the Defendants shall plead that they never were indebted, or any Plea in Substance amounting to a Denial that the Defendants ever were indebted, the Plaintiff shall, on Issue joined on such Plea, be entitled to a Verdict, upon Proof that the Committee decided the Sum in question to be payable by the Defendants, and that the Defendants were either at the Time of such Decision or at some previous Time a Party to the Clearing House, and in the latter Case, upon further Proof that such Sum was decided to be payable in respect of some Transactions, Matters, or Expenses which happened or were sustained while the Defendants were Parties to the Clearing House.

Plea.

XX. The Defendants in such Action may plead any Matter showing that they have, since the Time of the Decision, discharged the Sum or Balance and Interest so decided to be payable, but shall not plead any Plea denying the Plaintiff to be Secretary.

Evidence in support of Summons, Rule, or Action.

XXI. In support of any Action under this Act, it shall not be necessary as Part of the opening Case for the Applicant or Plaintiff to prove otherwise than as hereafter mentioned that the Members of the Committee were duly appointed, or that the Meeting was duly instituted or holden, or that the Proceedings were regular, but it shall be sufficient as *primâ facie* Evidence of those Facts respectively to prove that the Decision or Resolution in question was made at a Meeting purporting to be a Meeting of the Committee.

Parties to the Clearing House estopped from denying that they are such Parties, or repudiating Accounts.

XXII. On the Trial of any Action under this Act any Company, Corporation, Partnership, or Person who may have acted as a Party to the Clearing House shall, upon Proof thereof, be estopped from contending that at the Time when they so acted they were not a Party thereto, and they shall also be precluded from repudiating any Accounts adjusted by or authorized to be adjusted by the Committee, or the Acts of their respective Delegates during the Time such Delegate was a Member of the Committee.

Entries in Books.

XXIII. The Committee shall cause Notes, Minutes, or Copies, as the Case may require, of all Appointments made or Contracts entered into by them, and of the Orders and Proceedings of all their Meetings, to be duly entered in Books to be kept by them for that Purpose; and every such Entry shall be signed by the Chairman of the Meeting at which such Appointments, Contracts, Orders, or Proceedings respectively took place, who shall add the Word "Chairman" to his Signature, and which Entries

may

may be made and signed either at or after the Meetings to which they respectively relate; and every Entry purporting to be so signed shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such respective Meetings having been duly convened or held, or of the Persons making or entering such Orders or Proceedings being Members of the Committee, or of the Signature of such Chairman, or of the Fact of his having been Chairman, all which last-mentioned Matters shall be presumed till the contrary be proved.

Books of the Committee, or certified Copies thereof, to be primâ facie Evidence, and the Committee and Secretary to be competent Witnesses.

XXIV. On the Trial of any such Action, after it is proved to the Satisfaction of the Court or Judge trying the Cause that such Company, Corporation, Partnership, or Person is or had once been a Party to the Clearing House, the Books kept by the Committee shall be *primâ facie* Evidence of the Truth of the Matters therein stated and contained, and such Books and all Entries therein may be proved by Copies, and a Certificate that any Writing is such a Copy subscribed to or endorsed on such Writing, and purporting to be signed by the Chairman or Secretary of the Committee, shall be sufficient Proof that such Writing is a true Copy, without Proof of the Signature or of the official Character of the Person who signs it, and such Copy shall have the same Effect in Evidence as the Originals respectively would have had; and the Secretary, although the nominal Plaintiff, and the Members of the Committee, shall be competent Witnesses either for the Plaintiff or for the Defendants.

Suits to be in the Name of the Secretary to the Committee.

XXV. The Committee to the Clearing House may in all Cases sue and be sued in the Name of the Secretary to the Committee; and in all Proceedings at Law and in Equity, and in Bankruptcy or Insolvency, or of any other Sort, whether civil or criminal, the Name of the Secretary may be used instead of the Names of the Members of the Committee and of the Parties to the Clearing House, and Proofs in Cases of Bankruptcy, Insolvency, or Winding-up Affairs may be made by the said Secretary.

In criminal Proceedings Property of Committee to be deemed the Property of Secretary.

XXVI. In any Indictment or Information for any Felony or Misdemeanor, wherein it shall be necessary to state the Ownership of any Property whatsoever, whether real or personal, and the same shall either belong to the Committee, or be in their Custody or in the Custody or Possession of any Officer, Clerk, or Servant to the Committee, or of any Person employed for the Purpose or in the Capacity of Clerk or Servant by the Committee, or in or on any Building or Land used for the Purposes of the Clearing House, or shall be used or intended to be used for the Purposes of the Clearing House, it shall be sufficient to state such Property to belong to the Secretary of the Committee.

Criminal Proceedings to be prosecuted in the

XXVII. In any Indictment for Embezzlement wherein it shall be necessary to state the Party charged with the Embezzlement to have been the Clerk or Servant of some Master or Masters, or to have been employed

employed for the Purpose or in the Capacity of Clerk or Servant by some Master or Masters, and such Masters shall have been the Committee, it shall be sufficient in such Indictment to name the Secretary of the Committee in every Place in such Indictment where the Names of the Members of the Committee would but for this Enactment be required to be inserted. Name of Secretary.

XXVIII. Every Notice or Requisition on the Business of the Clearing House, or given pursuant to this Act, shall be sufficient if it be in Writing, signed by the Secretary of the Committee or by the Secretary or other Officer of the Company, Corporation, or by the Partnership or Person giving the same, and if it be sent by the General Post addressed to the Secretary of the Company or Corporation, or to the Partnership or Person for whom the same is intended, or to the Secretary, at the Office of the Clearing House, in case such Notice or Requisition be intended for the Committee; and Proof of such Notice or Requisition being deposited in any Public Letter Box or Receiving House for Letters intended to be forwarded by the General Post shall be deemed Proof of the due Service of such Notice or Requisition; and Notices or Requisitions for each Member of the Committee shall be sufficient if sent in manner aforesaid addressed to him at his private Residence, or at the principal Office of the Company or Corporation, or the Place of Business of the Partnership or Person whom he represents. Service of Notices.

XXIX. Every Writ, Summons, Intimation, or other Document in and about all legal Proceedings in the Name of the Secretary to the Committee pursuant to this Act against any Company, Corporation, Partnership, or Person who shall be or shall have been a Party to the Clearing House may be served or given, as the Case may be, by forwarding the same by Post in a registered Letter from the Chief Post Office in *Dublin*, addressed in the Case of a Company or Corporation to the Secretary thereof at the principal Office of such Company or Corporation, and in the Case of all other Parties to such Parties at their respective Places of Business, and Proof of such Writ, Summons, Intimation, or other Document having been so forwarded shall be deemed Proof of the due Service thereof. Service of Writs, &c.

XXX. In all Pleadings or Proceedings, civil or criminal, it shall be sufficient to mention the Companies, Corporations, Partnerships, and Persons who are Parties to the Clearing House by the Description of "the Parties to the Clearing House mentioned in the Clearing Act (*Ireland*), 1860," and to describe the Committee by the Description of "the Clearing House Committee mentioned in the Clearing Act (*Ireland*), 1860," instead of stating the Names of the individual Parties and Members. Description of Parties to the Clearing House and Committee in legal Proceedings.

Description of the Secretary in legal Proceedings.

XXXI. In all Cases where the Name of the Secretary to the Committee shall be used under the Authority of this Act it shall be sufficient to name and describe him, and to state the Authority for using his Name.

Actions, &c. not to abate on Death or Removal or Resignation of Secretary.

XXXII. Upon the Death or Removal or Resignation of any Secretary no Action or Suit, or other Proceeding pending in his Name as Plaintiff or Defendant, or otherwise, either on behalf of or against the Committee, shall abate or be stayed, but as soon as another Secretary shall be appointed the Name of such new Secretary shall be thereinafter used; and in an Action at Law such Name shall, whether before or after Judgment, be introduced by Suggestion, to which no Plea or Demurrer shall be allowed, and the Omission to make such Suggestion, and an erroneous Suggestion, shall be mere Irregularities, and shall, on the Application of the Committee, or of the Party opposed to the Committee, be rectified, but shall not otherwise be taken advantage of.

Power to Committee to arbitrate on Questions referred to them, or to appoint Arbitrators.

XXXIII. All such Companies, Corporations, Partnerships, and Persons as are mentioned in the First Section of this Act, whether Parties to the Clearing House or not, may agree to refer and may refer to the Arbitration of the Committee or the said Sub-Committee, or any Arbitrators and Umpire to be chosen by or out of the Committee, any existing or future Differences, Questions, or other Matters whatsoever in which any such Companies, Corporations, Partnerships, and Persons then are or thereafter shall be mutually interested, and which they might settle or dispose of between themselves, and may delegate to the Committee or the said Sub-Committee, or to the Arbitrators and Umpire to be chosen by or out of the Committee, as the Case may be, Power to determine all or any of the Terms of any Contract to be made between the Parties to any such Reference; and all the Powers conferred on Railway Companies by "The Railway Companies Arbitration Act, 1859," may be exercised by and shall in reference to this Act be held to apply to and include all such Parties as aforesaid; and all the Provisions of the said "Railway Companies Arbitration Act, 1859," with respect to the Appointment of Arbitrators and Umpire, either in the first instance, or to supply Vacancies occasioned by Death, Incapacity, Unfitness, or Failure to act, and whether by the Companies or by the Board of Trade, and the Powers of Arbitrators and Umpire, and the Proceedings in the Arbitration, may be exercised by or in reference to the Committee and the said Sub-Committee, and Arbitrators and Umpire to be chosen by or out of the Committee, as the Case may be, on behalf of any such Parties as aforesaid; and all the Provisions of the last-mentioned Act with respect to Awards and the Costs of the Arbitration and Awards shall be held applicable to and shall apply to any References to and Awards to be made by the Committee or the said Sub-Committee, or any Arbitrators or Umpire to be chosen by or out of the Committee.

XXXIV. The

Submission to Arbitration may be made Rule of Court.

XXXIV. The Submission to any Arbitration in accordance with this Act may at any Time be made a Rule of One of Her Majesty's Superior Courts of Record at *Dublin* on the Application of any Party interested, and the Court may remit the Matter to the Committee or the said Sub-Committee, or any Arbitrator or Arbitrators to be chosen by or out of the Committee, with any Direction the Court think fit.

Expenses of Act.

XXXV. All the Costs, Charges, and Expenses of obtaining and passing this Act, or incident thereto, shall be paid by the Committee out of such Moneys as shall come to their Hands after the passing of this Act, or shall be in their Hands at the Time of the passing thereof.

Short Title. Public Act.

XXXVI. This Act shall be called "The Clearing Act (*Ireland*), 1860," and shall be deemed to be a Public Act, and as such shall be judicially noticed.

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