ANNO DECIMO SEPTIMO & DECIMO OCTAVO

VICTORIÆ REGINÆ.

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Cap. cxxxv.

An Act to enable the *Londonderry and Enniskillen* Railway Company to make a Branch Railway to *Fintona*, and to extend their Line at *Londonderry*, and for other Purposes. [3d *July* 1854.]

WHEREAS by "The *Londonderry and Enniskillen* Railway Consolidation Act, 1852," the former Acts relating to the *Londonderry and Enniskillen* Railway Company were repealed, and the said Company was dissolved and re-incorporated under the same Style and Title: And whereas the greater Portion of the Railway between *Londonderry* and *Enniskillen* has been for some Time past completed, and the Residue thereof is now in course of Construction, and will shortly be open to the Public: And whereas it is expedient, and would be for the public Advantage, that the said Company should be authorized to construct a Branch Railway from the Main Line of their existing Railway to the Town of *Fintona*, and also to extend the Main Line from the present Terminus thereof at *Londonderry* to a Point below the present Bridge over the River *Foyle:* And whereas it is also expedient that the *Londonderry and Enniskillen* Railway Company should be empowered to acquire certain Lands lying near to the *Londonderry* Station of the said Railway, for the Purpose of providing additional Accommodation for the

15 & 16 Vict. c. xliv.

the Traffic on the Railway: And whereas it is necessary for the Completion of the Railway from *Londonderry* to *Enniskillen* that the said Company should have Power to increase the Capital which they are already authorized to raise: And whereas the several Objects aforesaid cannot be accomplished 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; (that is to say,)

8 & 9 Vict. cc. 18. & 20., and 14 & 15 Vict. c. 70. incorporated.

I. That "The Lands Clauses Consolidation Act, 1845," except the Provisions thereof with respect to the Purchase of Lands otherwise than by Agreement, "The Railways Clauses Consolidation Act, 1845," and "The Railways Act (*Ireland*), 1851," shall be held to apply to the Railways by this Act authorized to be made, and shall be incorporated with and form Part of this Act.

"The Company."

II. That throughout this Act the Expression "the Company" shall be taken to mean "The *Londonderry and Enniskillen* Railway Company."

Short Title.

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

Power to raise Money by Creation of new Shares.

IV. That it shall be lawful for the Company to raise, by the Creation of new Shares, the Sum of Seventy-five thousand Pounds, whereof the Sum of Twenty thousand Pounds shall be applicable to the Purposes of the Railways and Works by this Act authorized to be made, and the Sum of Fifty-five thousand Pounds shall be applicable to the Completion of the Railway from *Londonderry* to *Enniskillen*; and such additional Capital shall be divided into Shares of such Amount, and shall be apportioned and allotted to such Persons and in such Manner, as may be determined by the Order of any General Meeting of the Company specially convened for the Purpose; and it shall be lawful for the Company, if they shall think fit, with the Consent of Three Fifths of the Proprietors present at a General Meeting, by themselves or by Proxy, to guarantee Dividend or Interest upon such Shares, at a Rate not exceeding Five Pounds *per Centum per Annum*.

Former Preferences not to be prejudiced.

V. That no Preference or Priority in the Payment of Interest or Dividend which may be granted in respect of any Share created in pursuance of this Act shall prejudice or affect any Priority or Preference in the Payment of Interest or Dividend on any other Shares which may have been created by the Company in pursuance of any Act of Parliament passed prior to the passing of this Act, or which may otherwise be lawfully subsisting.

VI. That

Interest not to be paid on Calls paid up.

VI. That the Company shall not, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay Interest or Dividends to any Shareholder on the Amount of the Calls made in respect of the Shares held by him in the Capital of the Company; nevertheless, nothing herein contained shall be deemed to prevent the Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls already made as shall be in conformity with the Provisions in "The Companies Clauses Consolidation Act, 1845," contained.

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

VII. That the Company shall not, 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, 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 be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the Company to construct any other Railway or execute any other Work or Undertaking.

Power to borrow Money on Mortgage.

VIII. That the Company may borrow on Bond or Mortgage of their Undertaking, in addition to the Sum which they are authorized to borrow under the Provisions of the said recited Act, any Sum or Sums not exceeding in the whole Twenty-five thousand Pounds, but no Part thereof shall be borrowed until the whole of the additional Capital by this Act authorized to be raised shall have been subscribed for, and One Half thereof shall have been paid up.

Former Mortgages to have Priority.

IX. That all Mortgages already granted by the Company, and which shall be in force at the Time of the passing of this Act, shall, during the Continuance thereof, have Priority over all other Mortgages to be created by virtue of this Act, and nothing in this Act shall affect the Validity of any Mortgage or Bond so made or granted before the passing of this Act.

Mortgages to rank equally.

X. That no Mortgages, Bonds, or other Securities for Money borrowed, to be created or issued by the Company after the passing of this Act, shall entitle the Proprietors or Holders thereof respectively to any Preference or Priority on account of Date or otherwise howsoever, but the same shall respectively rank *pari passu* one with the other.

Application of Capital.

XI. That all and every Part of the several Sums of Money hereby authorized to be raised by Shares or on Mortgage or Bond shall be applicable only to the Objects and Purposes by this Act authorized.

Power to extend Railway according to deposited Plans.

XII. That, subject to the Provisions and Restrictions in this Act and in the Acts incorporated herewith contained, it shall be lawful for the Company to make and maintain the Railways herein-after mentioned,

tioned, with all requisite and necessary Works and Conveniences connected therewith respectively, upon the Lands delineated on the Plans and described in the Books of Reference thereto deposited with the Clerks of the Peace for the City and County of *Londonderry* and the County of *Tyrone*, and according to the Levels defined on the Sections deposited therewith; and to enter upon, take, and use such of the Lands delineated on the said Plans and described in the said Books of Reference as shall be necessary for such Purposes; (that is to say,)

First, a Railway diverging from the Main Line of the *Londonderry and Enniskillen* Railway at Two several Points, the one situate Six Chains or thereabouts South-west of the Road leading from *Fintona* to *Dromore*, where the said Road is crossed by the said Railway in the Townland of *Racrane* and Parish of *Donacavey* in the County of *Tyrone*; the other situate Twenty-five Chains or thereabouts North-east of the said Road, where the same is so crossed as aforesaid, and terminating in the Townland of *Fintona* and Parish of *Donacavey*, on the North-west Side of the Town of *Fintona*, at a Point close to the Boundary between the Townlands of *Liskey* and *Fintona*:

Secondly, a Railway commencing at the present Terminus of the *Londonderry and Enniskillen* Railway at the City of *Londonderry*, passing thence across the Bridge over the River *Foyle* or the Approach thereto close to the Toll House thereon, and terminating on the Shore of the River *Foyle* at a Point Three Chains or thereabouts to the North-east of the said Toll House:

And for the Purpose of providing additional Accommodation for the Traffic on the Railway, it shall be lawful for the Company, subject as aforesaid, to enter upon, take, and use the Lands situate on the Shore of the River *Foyle* adjoining the Townlands of *Londonderry* and *Ballymagowan* in the Parish of *Templemore* and City of County of *Londonderry* which are shown upon the said Plans and described in the Books of Reference so deposited as aforesaid; and the said Railways and Works by this Act authorized shall be and become Part of the Undertaking of the *Londonderry and Enniskillen* Railway Company.

Plans, &c. of the Quay or River Wall to be submitted to the Admiralty for their Approval.

XIII. The Plans, Sections, and Descriptions of the Structure of the Quay or River Wall hereby authorized to be constructed from the North Side of the West End of *Londonderry Bridge* and of the Depth and Nature of the Foundations thereof, shall be submitted to the Lord High Admiral, or to the Commissioners for executing the Office of Lord High Admiral, previously to the Commencement thereof, and the same shall be constructed only in such Manner as the said Lord High Admiral or the said Commissioners shall, by Writing under the Hand of the Secretary of the Admiralty, previously approve of.

Not to deviate in the Construction

XIV. The said Quay or River Wall, from the North Side of the West End of *Londonderry Bridge*, shall not deviate Riverward of the continuous

continuous Line of Quay shown on the Parliamentary Plan, without the previous Consent of the Lord High Admiral or of the Commissioners for executing the Office of Lord High Admiral, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only as may be so consented to.

of the Quay or River Wall without Consent of the Admiralty.

XV. Where a Deviation of the Line of Railway is hereby authorized within High-water Mark of the River *Foyle*, about Three Quarters of a Mile South of *Londonderry Bridge*, the same shall be diverted only as shall be previously approved of by the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty; and the Company shall, during the Formation of the Railway and Works connected therewith, and from Time to Time after the Formation thereof, make and maintain such Crossings for Footways and Carriageways over or under the Railway or Works as the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral shall at any Time or Times deem necessary.

Deviation of Railway within High-water Mark to be subject to Approval of the Admiralty, and Company to make Crossings over or under the Railway.

XVI. If at any Time or Times it shall be deemed expedient by the Lord High Admiral of the United Kingdom or the Commissioners for executing the Office of Lord High Admiral to order a local Survey and Examination of any Works of the Company in, over, or affecting any tidal or navigable Water or River or of the intended Site thereof, the Company shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Company, and if not paid upon Demand may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered with Costs as a Penalty is or may be recoverable from the Company.

Admiralty empowered to direct a local Survey at the Expense of the Company.

XVII. If any Work to be constructed by the Company in, under, over, through, or across any tidal Water or navigable River, or if any Portion of such Work which affects or may affect any such Water or River or Access thereto, shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition at the Cost and Charge of the Company, and the Amount thereof shall be a Debt due from the Company to the Crown, and be recoverable accordingly with Costs of Suit,

Admiralty may abate and remove Works affecting tidal Waters abandoned or suffered to fall into Decay.

XVIII. That, notwithstanding anything in this Act contained, it shall not be lawful for the Company to enter upon, take, or use, or in any Manner interfere with the Property vested in the *Londonderry Bridge* Commissioners, or with the Landing-place on the North-east Side of the present Bridge, without their Consent first had and obtained,

Property of the Londonderry Bridge Commissioners not to be taken without Consent.

tained, such Consent to be signified in Writing under the Hand of the Secretary for the Time being to the said Commissioners.

Works upon the Property of the Londonderry Bridge Commissioners to be executed under their Superintendence, &c.

XIX. That the Crossing of the present Bridge at *Londonderry*, and all Works to be executed under this Act in or upon the Property vested in the *Londonderry Bridge* Commissioners, shall be constructed under the Superintendence and to the entire Satisfaction of the Engineer, Surveyor, or other Officer of the said Commissioners, to be named by them in Writing under the Hand of the Secretary for the Time being to the said Commissioners.

No Locomotive Engine to cross or pass over or under present Bridge.

XX. That no Locomotive Engine shall cross the present Bridge over the River *Foyle* at *Londonderry*, or pass under the said Bridge, so long as the same shall be used for the Transit of Carriages or Passengers: Provided always, that the Restriction herein contained shall not extend to the present Site of the said Bridge in the event of the Bridge being removed to any other Part of the said River *Foyle*.

The Approach from Foyle Street to the River Foyle at Londonderry to be widened.

XXI. That, for the Purpose of affording to the Public convenient Access from *Foyle Street* to the River *Foyle* at *Londonderry*, the Company shall, within Twelve Months after they shall have acquired Possession of the Property by this Act authorized to be taken for the proposed Extension at *Londonderry*, alter the existing Lane or Approach from *Foyle Street* to the said River at the lower End of the same Property in such Manner as to make the said Lane or Approach Forty Feet wide at the least from *Foyle Street* to the River *Foyle*, and shall complete the Works connected with such Alteration to the Satisfaction of the Surveyors for the Time being to the Corporation of *Londonderry*, and to the Ballast Office Committee of the Lough and River Port and Harbour of *Lough Foyle*, or other the Corporation or Persons by whom the Powers and Authorities now vested in the said Ballast Office Committee may hereafter be exercised.

Company to purchase Land for a double Line.

XXII. That the Company shall and they are hereby required, previously to the Completion of the said Railways and the opening of the same respectively for public Traffic, to purchase and take such a Quantity of Land as shall be sufficient for the Purpose of laying down a double Line of Rails thereon, and shall plant and construct the Hedges and Fences to the said Railway at such Distances from each other as will leave sufficient Width between the same Hedges and Fences for the Purpose of laying down a double Line of Rails, and shall construct the Bridges and Tunnels of such Dimensions as will admit of a double Line of Rails being placed on the said Railways and being used for the Purposes of the same.

Board of Trade may require a double Line of Rails to be laid down.

XXIII. That in case the Railways by this Act authorized to be made shall be constructed with a single Line of Rails only, it shall be lawful for the Board of Trade, at any Time after the Completion and opening of the said Railways, to require that another Line of Rails shall

shall be laid down, and to certify the Works necessary or proper to be executed by the Company, and by such Certificate to require the Company to execute such Works within a certain Time after the Service of such Certificate to be appointed by the said Board.

Penalty for not laying down double Line of Rails when required.

XXIV. That if the Company shall fail to lay down another Line of Rails when required so to do by the Board of Trade, and to execute and complete the necessary Works as aforesaid within the Period appointed for that Purpose in such Certificate, they shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which such Works shall remain uncompleted beyond the Period so appointed for their Completion, and such Penalty may be recovered in any of Her Majesty's Courts of Record.

Land for extraordinary Purposes.

XXV. That the prescribed Quantity of Land which the Company may purchase for extraordinary Purposes under "The Railway Clauses Consolidation Act, 1845," shall not exceed Ten Acres.

Powers for compulsory Purchase of Lands limited.

XXVI. That the Powers of the Company for the compulsory Purchase of Lands for the Purposes of the said Railways shall not be exercised after the Expiration of Two Years from the passing of this Act.

Limiting Time for Completion of Works.

XXVII. That the Railways by this Act authorized and the Works connected therewith shall be completed within Three Years from the passing of this Act, and on the Expiration of such Period, the Powers by this Act granted to the Company for executing such Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Tolls.

XXVIII. That it shall be lawful for the Company to demand and receive, in respect of the Use of the Railways by this Act authorized, and of the Engines and Carriages employed thereupon, any Tolls and Charges not exceeding the maximum Rates of Tolls and Charges limited by "The *Londonderry and Enniskillen* Railway Consolidation Act, 1852:" Provided always, that in calculating the Distance traversed by any Passengers or Articles conveyed upon the Railway of the Company already authorized, and also upon the Railways by this Act authorized, such Distance shall be calculated continuously along such Parts, both of the Railway already authorized and of the Railways by this Act authorized, as shall be traversed by such Passengers or Articles; and where the Distance so calculated shall in the whole be less than Six Miles, the Company may demand Tolls as and for Six Miles, and where such Distance shall be Six Miles or more, the Company may demand the Tolls by "The *Londonderry and Enniskillen* Railway Consolidation Act, 1852," authorized in respect of the like Distance.

Railway to be subject to Provisionr of

XXIX. That nothing in this Act contained shall be held to exempt the said Railways or the Company from the Provisions of the several Acts

1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55., 7 & 8 Vict. c. 85., 9 & 10 Vict. c. 57., and 14 & 15 Vict. c. 64.

Acts respectively herein-after referred to; (that is to say,) an Act passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railways*; and another Act passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways*; and another Act passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*; and another Act passed in the Eighth Year of the Reign of Her said 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 passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her said Majesty, intituled *An Act for regulating the Gauge of Railways*; and another Act passed in the Session of Parliament held in the Fourteenth and Fifteenth Years of the Reign of Her said Majesty, intituled *An Act to repeal the Act for constituting Commissioners of Railways*; but that such Provisions shall be in force in respect to the said Railways and Works and Company, so far as the same are applicable.

Railway not exempt from Provisions of future General Acts.

XXX. That nothing herein contained shall be deemed or construed to exempt the Railways by this Act authorized to be made from the 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, which may hereafter pass during the present 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, authorized by the first-recited Act.

Saving Rights of the Irish Society.

XXXI. That nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Honourable the *Irish* Society, the Governor and Assistants, *London*, of the New Plantation of *Ulster* within the Realm of *Ireland*, under or by virtue of any Charter or Charters heretofore granted to them by the Crown, or of any Statute or Statutes in anywise relating thereto,

Expenses of Act.

XXXII. That all the Costs, Charges, and Expenses of and attending the passing of this Act or incidental thereto shall be paid by the Company,

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