ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

****

Cap. lxxix.

An Act to authorize the Abandonment of a Portion of the *Londonderry and Enniskillen* Railway, and the Enlargement of the intended Station at *Londonderry;* and for other Purposes.

[22d *July* 1848.]

WHEREAS an Act was passed in the Ninth Year of the Reign of Her present Majesty, intituled *An Act for making a Railway from* Londonderry *to* Enniskillen, and thereby 8 & 9 Vict. c. 98. a Company was incorporated, by the Name of "The *Londonderry and Enniskillen* Railway Company," for carrying into execution the said Undertaking: And whereas another Act was passed in the Tenth Year of the Reign of Her present Majesty, intituled *An Act to enable the* Londonderry and Enniskillen *Railway Company to alter and extend* 9 & 10 Vict. c. 318. *the Line of such Railway, to make a Branch therefrom to the Town of* Omagh, *and to amend the Act relating thereto:* And whereas it is expedient that the Portion of the Line of Railway authorized to be made by the said recited Acts which lies between the Towns of

Omagh and Enniskillen should be abandoned, and that the Capital of the said Company should be reduced: And whereas it is expedient that the intended Station of the said Railway at *Londonderry* should be enlarged: And whereas it would be found convenient if the Capital of the Company were divided into Shares of a less Amount than that prescribed by the first-recited Act: And whereas it is expedient that the Powers and Provisions of the said recited Acts should be in other respects altered, amended, and enlarged: 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, That the Provisions of "The Companies Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Act, 1845," and "The Railway Clauses Consolidation Act, 1845," shall respectively, so far as the same are applicable, and except in so far as the same may be inconsistent with the Provisions herein-after contained, be incorporated with and form Part of this Act.

8 & 9 Vict. cc. 16. 18. and 20. incorporated with this Act.

Certain Provisions of recited Acts extended to this Act.

II. And be it enacted, That all the Provisions contained in the said recited Acts, except such of them as are hereby altered or repealed, or are inapplicable to the Purposes of this Act, or are inconsistent with the Provisions of the said "Companies Clauses Consolidation Act, 1845," or of the said "Lands Clauses Consolidation Act, 1845," or of the said "Railways Clauses Consolidation Act, 1845," shall extend to this Act, and to the several Objects and Purposes thereof, as fully and effectually as if the same Provisions were re-enacted in this Act with reference to such Objects and Purposes.

Short Title.

III. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments or Documents, it shall be sufficient to use the Expression, "The *Londonderry and Enniskillen* Amendment Railway Act, 1848."

A certain Portion of Line to be abandoned.

IV. And be it enacted, That the said Company shall henceforth abandon the Formation of that Portion of the Main Line of the said Railway as at present authorized to be made which lies between certain Fields in the Townland of *Gortrush* and Parish of *Drumragh*, in the County of *Tyrone*, near to the Town of *Omagh*, and numbered 21 and 22 on the Plans of the said Railway (referred to in the secondly-recited Act), and the Terminus thereof, as shown on the said Plans, the adjoining the *Fair Green* at *Enniskillen*, in the County of *Fermanagh*.

Certain Parts of first-recited Act repealed.

V. And be it enacted, That so much of the said first-recited Act as enacts that the Capital of the Company shall be Five hundred thousand Pounds, and that the Number of Shares into which the same shall be divided shall be Ten thousand, and the Amount of each Share shall be Fifty Pounds, and also so much of the said first-recited Act as relates to the Calls, the borrowing of Money, and the

the Qualification of Directors, shall be and the same is hereby repealed.

As to Capital of Company.

VI. And whereas the estimated Expense of completing the said Railway as far as the Town of *Omagh*, and of the Works connected with the Enlargement of the said intended Station at *Londonderry*, including the Works already executed, is Three hundred and forty thousand Pounds: Be it enacted, That the Capital of the said Company shall be Three hundred and forty thousand Pounds, which Sum shall be applicable only for the Purpose of discharging the existing Liabilities of the Company under the said recited Acts, and of completing the said Railway and Enlargement of the said intended Station at *Londonderry*, and for no other Purpose whatsoever.

Certain Shares in arrear to merge in Capital of Company.

VII. And whereas the Market Price of certain Shares in the said Company is less than the Arrears of Calls and Interest due in respect of the same Shares, and they have been declared forfeited, and such Forfeiture has been confirmed in manner required by the said "Companies Clauses Consolidation Act," and it is expedient that such Shares should merge in the Joint Stock or Capital of the said Company: Be it therefore enacted, That the Shares so in arrear and forfeited shall, from and after the passing of this Act, merge in the said Company, and the respective Proprietors thereof shall be precluded from all Right, Title, or Interest therein: Provided always, that nothing herein-before contained shall release the Holders of such forfeited Shares from their Liability, if any, to Calls made previously to the Forfeiture thereof.

Power to cancel existing Shares, and create others in lieu thereof.

VIII. And whereas the Number of Shares remaining in the Hands of the Proprietors, after deducting the Number so merged or extinguished as aforesaid, is Six thousand eight hundred: Be it enacted, That it shall be lawful for the Company, with the Approbation of a Special General Meeting, to call in and cancel any such Share or Shares, and in lieu thereof to create and issue to the Proprietor of such Share or Shares One or more Share or Shares in lieu of every such Share so called in and cancelled, and each of such substituted Shares may be of such Amount as the Company shall think fit, but not less than Ten Pounds, provided that the substituted Share or Shares to be issued to each Proprietor shall be of the same total Amount as the Share or Shares in lieu whereof the same shall be substituted; and the Amount of Money which has or shall have been paid on any such cancelled Share or Shares shall be considered as having been paid on the Share or Shares substituted for the same, and shall be divided between or among the same substituted Shares (if more than One) in such Proportions as shall be determined at the aforesaid Special General Meeting; and so much of the Amount of such substituted Share or Shares as the Money which has or shall have been paid on the Share, or on all or any of the Shares, for which the same shall be substituted shall be insufficient to satisfy shall be paid at such Times and by such Instalments as the same shall be called for by the Company; and after any such substituted Share

shall be created and issued as aforesaid, the same shall (except as hereby otherwise provided) be subject to the same Provisions in all respects, whether with reference to the Payment of Calls, or the Forfeiture of Shares on Nonpayment of Calls, or otherwise, as if such Share had been a Share created under the Authority of this Act.

Limiting Amount of Calls on substituted Shares.

IX. And be it enacted, That after any Share shall be created by virtue of this Act in substitution of any existing Share it shall not be lawful for the Company to make any Call in respect of any substituted Share of a greater Amount than a Sum equal to One Fifth of the total nominal Amount of such last-mentioned Share, and that there shall be an Interval of Three Months at the least between each one of the said Calls.

Power to create Preference Shares.

X. And be it enacted, That it shall be lawful for the Company, with the Approbation of a Special General Meeting, to declare that the Holders of any of such substituted Shares shall be entitled to a Preference in Payment of Dividends to such Extent as may be agreed upon at such Special General Meeting, not exceeding the Rate of Ten Pounds *per Cent. per Annum* upon the Terms paid in respect thereof.

Forfeited Shares which cannot be sold may merge in the Company.

XI. And whereas it is expedient that Provision should be made for the merging in the said Company of any further Shares which may be forfeited for Nonpayment of Calls: Be it therefore enacted, That in all Cases where any Share shall have been or shall hereafter be declared forfeited, and such Declaration of Forfeiture has been or shall hereafter be confirmed in manner required by "The Companies Clauses Consolidation Act, 1845," and Notice shall be given by the said Company in the *London Gazette*, and in the Newspapers mentioned in the first-recited Act for the Insertion of Advertisements, of such Forfeiture or intended Forfeiture, and that in case the Arrears of Calls and Interest due thereon shall not be paid within the Space of One Calendar Month from the Publication of such Notices that such Share will become merged in the said Company, then in case such Arrears and Interest shall not be paid within such last-mentioned Period, and the Market Price of Shares in the said Company in the City of *Dublin* and in *London* shall then or at any Time thereafter be less than the Arrears of Calls and Interest due in respect of such Shares, the same shall absolutely merge in the Joint Stock or Capital of the said Company, and a Declaration in Writing made by some credible Person, not interested, before any Justice of the Peace, stating that a Sum of Money sufficient to pay the Arrears of Calls and the Interest due in respect of such Share could not be obtained for the same according to the Market Price of Shares in the City of *Dublin* or in *London*, shall be sufficient Evidence of the Facts therein stated; and the Proprietor of such Share shall from and after the making of such Declaration be precluded from all Right, Title, or Interest therein: Provided always, that nothing hereinbefore contained shall release the Holders of such forfeited Shares from

from their Liability, if any, to Calls made previously to the Forfeiture thereof.

Power to re-issue forfeited Shares as Preference Shares.

XII. And be it enacted, That it shall be lawful for the said Company, with the Approbation of a Special General Meeting, at any Time after the Merger of any such Shares as aforesaid, to re-issue and constitute and declare the same as Preference Shares, and entitled to the like Priority of Dividend as is herein-before provided with respect to the Shares authorized to be substituted as aforesaid.

Power to borrow Money on Mortgage.

XIII. And be it enacted, That it shall be lawful for the Company to borrow on Mortgage or Bond for the Works, Working, and Maintenance of the said Railway, any Sum not exceeding in the whole the Sum of One hundred and thirteen thousand Pounds; but no Part of such Sum shall be borrowed until One Half of the said Capital of Three hundred and forty thousand Pounds shall have been actually paid up: Provided always, that all and every Part of such Sum of Money so to be borrowed shall, when raised, be applicable only to the Discharge of the existing Liabilities of the Company under the said recited Acts, and to the Objects and Purposes by this Act authorized.

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

XIV. And be it enacted, That it shall not be lawful for the said Company, out of any Money by the first-recited Act or any other Act relating to the said Railway 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 be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the said Company to construct any other Railway or execute any other Work or Undertaking.

Interest not to be paid on Calls paid up.

XV. And be it enacted, That it shall not be lawful for the said Company, out of any Money by this Act or any other Act relating to the said Railway Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest to any Shareholder on the Amount of Calls made in respect of the Shares held by him in the Capital by this Act authorized to be raised: Provided always, that nothing herein-before contained shall be deemed to prevent the said Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as shall be in conformity with the Provisions in the said first-recited Act in that Behalf contained.

Qualification of Directors.

XVI. And be it enacted, That the Qualification of a Director shall be the Possession in his own Right of such a Number of Shares as shall represent One thousand Pounds of the Capital of the Company.

Power to enlarge Station at Londonderry.

XVII. And whereas Plans of the Lands and Houses necessary for the Extension and Enlargement of the said intended Station at *Londonderry*,

donderry, and Sections of the proposed Diversion of a Road for such Purpose, together with a Book of Reference to the said Plans, have been deposited with the Clerk of the Peace for the City and County of *Londonderry:* Be it enacted, That, subject to the Provisions in this Act and the Acts incorporated therewith contained, it shall be lawful for the said Company to extend and enlarge the said intended Station at *Londonderry* in the Manner shown upon the said Plans and Sections, and for the Purpose aforesaid to enter upon, take, and use such of the said Lands and Houses described in the said Book of Reference as shall be necessary for such Purpose.

Power to divert a certain public Road.

XVIII. And be it enacted, That it shall be lawful for the said Company to divert or alter, to the Extent and in the Manner shown upon the Plans and Sections deposited as herein-before mentioned, the public Road called *Foyle Road*, leading from the Bridge at *Londonderry* to the present Terminus of the said Railway, at the *Gallow's Strand*, and to stop up and discontinue, and to take and use for the Purpose aforesaid, so much of the said public Road as will become unnecessary in consequence of such Diversion.

Period for Completion of Works.

XIX. And be it enacted, That the said Works hereby authorized shall be completed within Seven Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act or the Acts incorporated therewith granted to the Company for executing the same shall cease to be exercised, except as to so much of the same as shall then be completed.

Company to provide a Landing Place adjoining Londonderry Bridge.

XX. And be it enacted, That the said Company shall provide adjoining *Londonderry Bridge* a Space with a Frontage of Twenty Feet, and Access thereto from the public Road of the same Width for a free public Landing Place, as marked (*e. b.*) on the Plan with the Admiralty dated the Sixth of *June* One thousand eight hundred and forty-eight, and the Company shall construct, and for ever after the Completion thereof maintain in good Repair, a Frontage Thirty Feet deep outside the Line of the said Railway, extending from C. to D., marked on the said Plan and coloured Green, as a public Quay or Wharf for the free Use of the Inhabitants of *Londonderry*, and protected from the River by a Stone Wall or Fence, as the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, may, by Writing under the Hand of the Secretary of the Admiralty, approve of.

Company to construct Bridges over Railway to communicate with public Quay.

XXI. And be it enacted, That, immediately after the Completion of the Extension of the said Railway to *Londonderry Bridge*, the said Company shall construct Three wooden Foot Bridges across the said Railway, to communicate with the public Quay at the Points *f.*, *g.*, and *h.*, shown on the said Plan; and if at any Time the public Traffic should in the Opinion of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, so require, the said Company shall, in the Place and Stead of the

the said Foot Bridges, construct good and sufficient Bridges or Crossings over the said Railway for the free Passage of Waggons, Carts, Horses, and Cattle, in addition to Foot Passengers over the said Railway, in such Manner as and when the said Lord High Admiral, or the said Commissioners, shall direct and approve of, such Direction and Approval to be signified in Writing under the Hand of the Secretary of the Admiralty.

Power for Admiralty to order a local Survey of Works, &c.

XXII. And be it enacted, That if after working Drawings of the Works hereby authorized or affecting Tidal Water, which have to be approved of by the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, shall have been submitted to him or them, it shall be deemed expedient by him or them to order a local Survey and Examination of such Works, or of the intended Site thereof, the Company shall defray the Costs of 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.

If Works constructed over Tidal Waters are abandoned, Admiralty may remove them at the Charge of the Company.

XXIII. And be it enacted, That if any Work to be constructed by the Company in any Tidal Water or Navigable River, or if any Portion of the Railway which affects any such Water or River, or Access thereto, shall be abandoned or suffered to fall into Disuse or Decay by the Company, 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.

Maximum Charges for Goods and Animals.

XXIV. And be it enacted, That the maximum Rates of Charge to be made by the Company, including the Tolls for the Use of the Railway, and of Carriages and for locomotive Power, and every other Expense incidental to such Conveyance (except the loading and unloading of Goods when such Service is performed by the Company), shall not exceed the Amounts mentioned in the following Table; (that is to say,)

Tolls for Goods.

1. In respect of the Tonnage of all Articles conveyed upon the Railway, or any Part thereof, as follows:

For all Dung, Compost, and all Sorts of Manure, Lime, and Limestone, and all undressed Materials for the Repair of public Roads or Highways, *per* Ton *per* Mile not exceeding Two-pence:

For all Coals, Coke, Culm, Charcoal, and Cinders, all Stones for building, pitching, and paving, all Bricks, Tiles, Slates, Clay, Sand, Ironstone and Iron Ore, Pig Iron, Bar Iron, Rod Iron, Hoop

Hoop Iron, and all other similar Descriptions of Wrought Iron and Iron Castings not manufactured into Utensils or other Articles of Merchandize, *per* Ton *per* Mile not exceeding Two-pence Halfpenny:

For all Sugar, Grain, Corn, Flour, Meal, Bread, Potatoes, Hay, Straw, Flax, Tow, Linen or Cotton Yarn, Hides, Dyewoods, Earthenware, Timber, Stones, and Deals, Metal (except Iron), Nails, Anvils, Vice, and Chains, *per* Ton *per* Mile not exceeding Three-pence:

For all Cotton and other Wools, Drugs (except Vitriol), manufactured Goods, and all other Wares, Merchandize, Fish, Articles, Matters, or Things, *per* Ton *per* Mile not exceeding Four-pence:

And for every Carriage of whatever Description, 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 belonging to the Company, *per* Mile not exceeding Sixpence:

And a like Sum of Two-pence *per* Mile for every additional Quarter of a Ton, or fractional Part of a Quarter of a Ton, which any such Carriage so conveyed may weigh.

Tolls for Cattle.

2. In respect of Animals conveyed in Carriages upon the Railway, as follows:

For every Horse conveyed in or upon any Carriage belonging to the Company, not exceeding Four-pence *per* Mile:

For every Ox, Cow, Bull, or neat Cattle conveyed in or upon any such Carriage, *per* Mile not exceeding Three-pence:

For every Calf or Pig, Sheep, Lamb, or other small Animal conveyed in or upon any such Carriage, *per* Mile not exceeding One Penny.

Maximum Rates of Charge for Passengers.

XXV. And be it enacted, That the maximum Rates of Charge to be made by the Company for the Conveyance of Passengers upon the said Railway, including the Tolls for the Use of the Railway and of Carriages, and for locomotive Power, and every other Expense incidental to such Conveyance, shall not exceed the following Sums:

For every Passenger conveyed in a First-class Carriage, the Sum of Two-pence Halfpenny *per* Mile:

For every Passenger conveyed in a Second-class Carriage, the Sum of One Penny Three Farthings *per* Mile:

For every Passenger conveyed in a Third-class Carriage, the Sum of One Penny *per* Mile:

Restriction as to Charges not to apply to Special Trains.

XXVI. Provided always, and be it enacted, That the Restriction as to the Charges to be made for Passengers shall not extend to any Special or Extra Train that may be required to be run upon the said Railway, but shall apply only to the ordinary Trains appointed, or to

be appointed, from Time to Time by the said Company for the Conveyance of Passengers and Goods upon the said Railway.

Company may take increased Charges by Agreement.

XXVII. Provided further, and be it enacted, That nothing herein contained shall be held to prevent the said Company from taking any increased Charges over and above the Charges herein-before limited for the Conveyance of Goods of any Description by Agreement with the Owners of or Persons in charge of such Goods, either in respect of the Conveyance thereof by Passenger Trains, or by reason of any other special Service performed by the said Company in relation thereto.

Saving the Rights of the Irish Society.

XXVIII. Provided always, and be it enacted, 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 in *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.

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

XXIX. 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 said Majesty, intituled *An Act for regulating Railways;* and another Act was 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 was 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 Two Acts were passed in the Tenth Year of the Reign of Her said Majesty, intituled respectively, *An Act for regulating the Gauge of Railways*, and *An Act for constituting Commissioners of Railways:* Be it enacted, That nothing in this Act contained shall be held to exempt the said Railway and the Works hereby authorized, or the said Company, from the Provisions of the said several Acts respectively, but that such Provisions shall be in force, in respect to the said Railway, Works, and Company, so far as the same shall be applicable thereto.

Railway not exempt from Provisions of future general Acts.

XXX. Provided always, and be it enacted, That nothing herein contained shall be deemed to exempt the Railway by this or the said recited Acts authorized to be made from the Provisions of any general Act relating to such Acts, or of any general Act relating to Railways, now in force or which may hereafter pass during the present 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 authorized by the said recited Acts or this Act.

Expenses of Act.

XXXI. And be it enacted, That all the Costs, Charges, and Expenses of and attending the promoting and passing of this Act, or incidental thereto, shall be paid by the said Company out of the first Monies which shall come to their Hands, and in preference to any other Payment whatsoever.

Public Act.

XXXII. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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