SUPPLIED FOR THE PUBLIC SERVICE

CHAPTER lxxix.

An Act to enable the Londonderry and Lough Swilly Railway Company to raise additional capital to confer further powers upon them in reference to their undertaking and for other purposes. [3rd July 1882.] A.D. 1882.

WHEREAS the Londonderry and Lough Swilly Railway Company (herein-after called "the Company") were incorporated by the Lough Swilly Railway Act 1853 (herein-after called "the Act of 1853") and were thereby authorised to make and maintain a railway from Lough Swilly in the county of Donegal to the River Foyle near Londonderry: 16 & 17 Vict. c. liv.

And whereas the Company by the Lough Swilly Railway (Deviation) Act 1859 (herein-after called "the Act of 1859") were authorised to deviate and alter portions of their said railway and the said railway is now completed and open for traffic: 22 & 23 Vict. c. l.

And whereas the Company by the Lough Swilly Railway (Buncrana Extension) Act 1861 (herein-after called "the Act of 1861") were authorised to extend their railway to the town of Buncrana in the county of Donegal and to raise further capital for such purpose: 24 & 25 Vict. c. clxi.

And whereas the Company by the Lough Swilly Railway (Extension) Act 1864 (herein-after called "the Act of 1864") were authorised to extend their railway in the direction and in the manner and subject to the terms and conditions in that Act contained but none of the powers of the Act of 1864 have been exercised: 27 & 28 Vict. c. cexxviii.

And whereas by the Letterkenny Railway Act 1880 the Company were authorised to reduce the gauge upon which their said railway was constructed or to lay down a third rail upon their railway or any part or parts thereof in order to adapt the same to a gauge corresponding with that upon which the railways of the Letterkenny Railway Company might in accordance with that Act be made or completed and to enter into working and traffic agreements with 43 & 44 Vict. c. xxiii.

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that company and for any of those purposes to apply their corporate funds:

And whereas it is expedient that the Company should be empowered to acquire for improved station accommodation and sidings and for the purposes of their undertaking the additional lands and buildings in this Act mentioned:

And whereas plans of such additional lands by this Act authorised to be acquired and appropriated together with books of reference containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of such lands were duly deposited with the clerk of the peace for the county of Donegal which plans and books of reference are in this Act referred to as "the deposited plans and books of reference":

And whereas the original share capital of the Company authorised by the Act of 1853 and the Act of 1861 consisted of the sum of sixty thousand pounds of which fifty-three thousand three hundred and eighty-nine pounds or thereabouts have been raised and the Company have borrowed and now owe on mortgage sixteen thousand eight hundred pounds or thereabouts out of nineteen thousand six hundred pounds authorised by those Acts respectively including a sum of ten thousand seven hundred and five pounds eighteen shillings and fourpence due and owing to the Public Works Loan Commissioners:

And whereas by the Act of 1864 the Company were authorised to raise the further sum of twenty thousand pounds by shares and six thousand six hundred pounds by borrowing for the execution of the works in that Act mentioned but no part of the capital so authorised was created or issued:

And whereas no debenture stock has been created or issued by the Company:

And whereas there are heavy claims against the Company in respect of judgment debts and unpaid interest thereon and other liabilities amounting in all to ninety-two thousand pounds or thereabouts:

And whereas it would be of local and public advantage and of importance and benefit to the creditors and shareholders of the Company that the Company should be enabled to improve their undertaking by the purchase of additional lands by reducing the gauge upon their said railway and by the purchase of suitable engines rolling stock and appliances and it is essential that the provisions herein-after contained should be made and that the Company should be authorised for the purposes herein-after defined to raise a further sum of money by the creation of debenture stock

and to create and issue preference stock to be applied as in this Act in that behalf provided and that the judgment and other creditors of the Company should be required to accept such stock in satisfaction and discharge of their respective securities debts and claims:

And whereas upwards of five sixths in value of the judgment and other creditors of the Company are willing to accept such stock in satisfaction and discharge of their respective securities debts and claims:

And whereas it is expedient that the unexercised powers as to capital under the Act of 1864 should be repealed:

And whereas it is expedient that the Company and the Londonderry Port and Harbour Commissioners (herein-after called the commissioners) be empowered to enter into and carry into effect agreements as in this Act provided:

And whereas it is expedient that such other powers and provisions as are in this Act contained should be conferred and made:

And whereas the purposes of this Act 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:

Short title.

1. This Act may be cited as the Lough Swilly Railway (Further Powers) Act 1882.

Incorporation of Acts.

2. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):

8 & 9 Vict. c. 16.

The Companies Clauses Consolidation Act 1845 with respect to the several matters following (that is to say):

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing payment of calls;

The forfeiture of shares for nonpayment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of shares into stock;

The giving of notices;

The provision to be made for affording access to the special Act:

Part I. (relating to the cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating

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to debenture stock)—except section 34 thereof—of the Companies Clauses Act 1863;

26 & 27 Vict. c. 118.

The Lands Clauses Consolidation Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways (Ireland) Act 1851 the Railways (Ireland) Act 1860 the Railways (Ireland) Act 1864 and the Railways Traverse Act;

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 14 & 15 Vict. c. 70. 23 & 24 Vict. c. 97. 27 & 28 Vict. c. 71. 31 & 32 Vict. c. 70.

The Railways Clauses Consolidation Act 1845;

8 & 9 Vict. c. 20.

And Part I. (relating to the construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863.

26 & 27 Vict. c. 92.

Interpretation of general Acts.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. The expression "the railway" means the authorised railway and works of the Company.

As to deposit of plans with clerks of unions.

4. With reference to this Act all the provisions of sections seven eight and nine of the Railways Clauses Consolidation Act 1845 shall be read and construed as if instead of the expression "postmasters of the post towns in or nearest to such parishes in Ireland" the expression "clerks of the unions within which such parishes are included in Ireland" and as if instead of the word "postmasters" the words "clerks of the unions" had been used and inserted in that Act throughout those sections.

Power to Company to purchase additional lands for general purposes.

5. Subject to the provisions of this Act the Company may from time to time enter upon take and appropriate for the purposes of improved station accommodation and sidings and other purposes connected with their undertaking all or any of the lands and buildings following delineated on the deposited plans and described in the deposited books of reference relating thereto respectively (that is to say):—

(1) Certain lands in the townland of Ballyederowan and parish of Burt in the county of Donegal abutting on the east side of the railway of the Company and on the bye-road leading from the public road from Londonderry to Buncrana to the Inch Level Slob and near to the fifth mile post from Londonderry.

(2) Certain lands in the townland of Figary and parish of Upper Fahan in the said county of Donegal lying on the south-west side of and adjoining the Fahan Station of the Company.

Power to grant easements.

6. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses

Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Period for compulsory purchase of lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Unexercised powers of issuing capital extinguished.

8. All powers of the Company to create and issue shares or stock and to borrow on mortgage under the Act of 1864 not hitherto exercised shall be from and after the passing of this Act absolutely cancelled extinguished and determined.

Providing for the creation of debenture stock.

9. The Company may subject to the provisions of Part III. of the Companies Clauses Act 1863 in addition to their existing borrowing powers under the Acts of 1853 and 1861 and by virtue and for the purposes of this Act create and issue debenture stock to be called "the Londonderry and Lough Swilly Railway Debenture Stock 1882" which debenture stock shall be charged upon the undertaking of the Company after all mortgages and debenture stock and the interest thereof respectively now granted or issued or hereafter to be granted or issued under the powers of the Acts of 1853 and 1861 or either of them but in priority to all preference and ordinary shares and stock of the Company and shall be subject to the conditions herein-after specified.

Conditions of debenture stock.

10. The debenture stock shall not exceed in amount ten thousand pounds and shall bear interest not exceeding six pounds per centum per annum and shall have priority over the preference stock created by virtue of this Act but shall be redeemable at such price and at such times and in such manner in all respects as the directors may determine at the date of issue and such conditions shall be endorsed upon the stock certificates.

Application of debenture stock.

11. The moneys to be raised by the issue of the debenture stock shall be applied to the following purposes namely :—

First. To the payment of the costs charges and expenses mentioned in the last section of this Act.

Second. In and towards the purchase of suitable engines rolling stock and appliances and to the purchase of additional lands in the townlands of Ballyederowan and Figary and the conversion of the railway of the Company into a narrow gauge railway or to the laying down of a third line of rail thereon.

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Providing for the creation of preference stock.

12. The Company may create and issue preference stock to an amount not exceeding fifty thousand pounds to be called the Londonderry and Lough Swilly Preference Stock 1882 and which shall be entitled to a dividend out of the profits of each year at the rate of five pounds per centum per annum and shall rank next in priority after the debenture stock.

Application of preference stock.

13. The preference stock shall be applied in satisfaction of the principal moneys and interest due to the creditors of the Company (other than the existing mortgagees under the Act of 1853 and the Act of 1861) in the proportion of fifty pounds of such preference stock for every hundred pounds of such principal and interest.

Notice by advertisement for creditors.

14. The Company shall within three months after the passing of this Act publish once in each of two successive weeks in the Dublin Gazette and in a daily or other Londonderry newspaper advertisements calling upon the creditors of the Company (other than the said mortgagees) to send in to the Company the particulars of the amounts due to them for principal and interest and shall also within the like period send by registered letter addressed to each of such creditors whose name and address is known to the Company a copy of such advertisement.

Powers to trustees and others.

15. All trustees executors and administrators assignees or trustees in bankruptcy trustees and inspectors under deeds of arrangement or composition liquidators of companies and corporations holding or being entitled to or interested in any judgment or other debt of the Company in respect of which preference stock is by this Act authorised to be issued upon any trust or otherwise and the guardians and committees respectively of the estates of any infants and lunatics respectively who may hold or be entitled to or interested in any judgment or other debt of the Company shall accept preference stock in lieu thereof under the provisions of this Act and exercise all or any of the powers by this Act given to judgment and other creditors respectively.

Preference stock to be subject to same trusts &c. as affected the original bonds &c.

16. All preference stock appropriated vested by or issued in pursuance of this Act shall be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as immediately before the passing of this Act and the vesting or issue of such preference stock affected the then existing judgments and debts for which it is substituted or in respect of which it is issued and so as to give effect to and not revoke any testamentary disposition of or affecting such then existing judgments or debts and every such testamentary disposition shall take effect with reference to a proportionate amount of the preference stock substituted for such judgments and debts.

On the issue of preference stock to creditors their securities to be cancelled.

17. The Company shall issue to the creditors of the Company (other than the said mortgagees) in satisfaction and discharge of the amount of principal money and interest owing to such creditors certificates of preference stock the amount of such stock to be issued to each creditor being equal to fifty per centum of the amount due to him for principal and interest and upon the issue to any such creditor of the certificates of preference stock to which he is entitled or at the expiration of six months from the passing of this Act (whichever shall first happen) the claim or demand for such principal money and all interest thereon in respect of which the stock is issued or by this Act is authorised to be issued and all securities for the same shall be by this Act cancelled and extinguished Provided always that any creditor may at any time thereafter require the Company to issue to him certificates for such amount of the preference stock as by this Act the Company are authorised to issue in respect of the claim or demand so cancelled or extinguished and which he shall not have received.

As to issue of balance of preference stock.

18. Any preference stock not issued to the creditors of the Company may be issued in such manner subject to the provisions of this Act as the directors may deem most advantageous for the Company.

Additional director to be appointed by preference stockholders.

19. After the passing of this Act there shall be an additional director of the Company to whom the following provisions shall apply :—

1. He shall be called the preference director and shall be elected by the preference stockholders.
2. His qualification shall be the possession in his own right of not less than five hundred pounds in preference stock.
3. He shall hold office for three years and at the expiration thereof shall be capable of re-election.
4. The first preference director shall be elected at a meeting of the preference stockholders to be called within six months after the passing of this Act.

Election of preference director.

20. Every vacancy whether regular or casual in the office of preference director shall be filled up by election at a meeting of preference stockholders and for this purpose meetings of the preference stockholders shall as and when necessary be called as soon as practicable and held at some convenient place.

Notice of meetings of preference stockholders

21. All meetings of preference stockholders shall be convened by like notice as by the Companies Clauses Consolidation Act 1845 is required to be given of general meetings of a company.

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Chairman of meeting of preference stockholders.

22. At a meeting of preference stockholders the chairman of the meeting shall be the preference director for the time being and in his absence the chairman of the meeting shall be any preference stockholder present at the meeting to be chosen by the meeting.

Proceedings at meetings of preference stockholders.

23. At every meeting of preference stockholders they shall vote as at a general meeting of the Company and every such meeting shall be conducted and shall be regulated as respects quorum and otherwise as nearly as may be as if such meeting were a general meeting of the Company under the Companies Clauses Consolidation Act 1845 and the Company's former special Acts.

Preference stockholders not to vote at general meetings.

24. The preference stockholders shall not be entitled to vote at or take part in the general meetings of the Company.

Application of income.

25. Subject to the saving of the rights of the Public Works Loan Commissioners and their secretary and the mortgagees of the Company under the Acts of 1853 and 1861 herein-after contained the income received by the Company in respect of each year from and after the 1st of January 1883 shall be applied in the manner and with the priorities following :—

(1.) In payment of all working and incidental expenses including due and proper maintenance of the permanent way rolling stock and stations and other buildings of the Company and in payment of all rates and taxes payable in respect thereof.

(2.) In payment of the annuity or rentcharge payable to the Public Works Loan Commissioners under the Act of 1853 or other Act.

(3.) In payment of the interest on the mortgages now issued or hereafter to be issued under the Acts of 1853 and 1861 according to their respective priorities.

(4.) In payment of the interest on the debenture stock issued by virtue of this Act.

(5.) In payment of the dividend on the preference stock issued by virtue of this Act.

(6.) In payment of a dividend on the ordinary shares or stock of the Company.

Saving for Public Works Loan Commissioners and mortgagees.

26. Nothing in this Act contained shall prejudice any security made or granted by the Company to the Secretary of the Public Works Loan Commissioners or any powers remedies or provisions for recovery of the money for the time being due under any such security or any act done or to be done pursuant thereto or shall prejudice any of the mortgages issued by the Company under the Acts of 1853 and 1861.

Power to enter into working agreements with the harbour commissioners. 36 & 37 Vict. c. 48.

27. The Company on the one hand and the commissioners on the other hand may subject as regards the Company to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into and carry into effect and rescind agreements with respect to the following purposes or any of them (that is to say) :—

The haulage by the commissioners of the traffic of the Company over the tramways and works of the commissioners or any part or parts thereof respectively ;

The management regulation interchange collection transmission accommodation and delivery of traffic upon or coming from or destined for the respective undertakings of the Company and the commissioners or either of them ;

The payments allowances drawbacks or rebates to be made by either the Company or the commissioners to the other of them ;

Provided always that no agreement to be entered into as aforesaid shall be for a longer period than five years from the making thereof ;

Company not to haul traffic on tramways of commissioners.

28. Nothing in this Act contained shall be construed to authorise the Company to haul traffic on the tramways of the commissioners.

Classification table to be open to inspection and copies to be sold.

29. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling.

Terminal charges (if any) to be specified on application.

The Company shall within one week after application in writing made to the Secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified.

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a

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penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Interest not to be paid on calls paid up.

30. The Company shall not out of any money by this Act authorised to be raised pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future Bills not to be paid out of capital.

31. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

32. Nothing in this Act shall exempt the Company or their railway from the provisions of any general Act relating to railways or 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 or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Costs of Act.

33. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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