ANNO VICESIMO SEXTO & VICESIMO SEPTIMO

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Cap. cliii.

An Act to grant further Powers to the *Portadown, Dungannon, and Omagh Junction* Railway Company; to amend the Acts relating to the Company; and for other Purposes.

[13th *July* 1863.]

WHEREAS the *Portadown, Dungannon, and Omagh Junction* Railway Company (in this Act called "the Company") have constructed a Railway from the *Ulster* Railway at *Portadown* in the County of *Armagh* to the *Londonderry and Enniskillen* Railway at *Omagh*, and by means thereof have provided convenient Railway Communication between *Londonderry* and *Belfast*, and the shortest Railway Communication between *Londonderry* and *Dublin* and other important Towns and Places: And whereas the Monies which the Company are authorized to raise by Shares and by borrowing are as follows; (that is to say,)

By "The *Portadown and Dungannon* Railway Act, 1847," (in this Act called the "Act of 1847") One hundred and fifty-four thousand seven hundred and seventy-five Pounds by Shares, and Fifty-one thousand five hundred and eighty-five Pounds by borrowing:

By "The *Portadown, Dungannon, and Omagh Junction* Railway Act,

1857," (in this Act called the "Act of 1857") the Sum of One hundred thousand Pounds by Shares, and Thirty-three thousand Pounds by borrowing; and the Company were authorized by that Act to attach a preferential Dividend to certain of the unissued and cancelled Shares forming Part of the original Capital of One hundred and fifty-four thousand seven hundred and seventy-five Pounds:

By "The *Portadown, Dungannon, and Omagh Junction* Railway Act, 1860," in this Act called the Act of 1860, Sixty-six thousand Pounds by Shares, and Twenty-two thousand Pounds by borrowing:

By "The *Portadown, Dungannon, and Omagh Junction* Railway Act, 1861," (in this Act called the "Act of 1861") Seventy-five thousand Pounds by Shares, and Twenty-four thousand eight hundred Pounds by borrowing, applicable to the Construction of the Branch Railway authorized by that Act:

And whereas the Share Capital of the Company at present consists of Three hundred and twenty-nine thousand Pounds ordinary Capital, and Sixty-six thousand seven hundred and seventy-five Pounds preferential Capital, entitled to a preferential Dividend of Six Pounds *per Centum per Annum*, but redeemable by the Company in the Year One thousand eight hundred and sixty-eight: And whereas the Company require for the Discharge of Debts and Liabilities, and other Purposes connected with their Undertaking, further Sums of Money, and it is expedient that they be authorized to raise the same by additional Shares and by Mortgage: And whereas it is also expedient that such Provision be made with regard to the raising of such additional Capital as is in this Act expressed, and that the Company be authorized to convert their Mortgage and Bond Debt into Debenture Stock: And whereas it is expedient to alter and amend the Provisions of the said Acts in other respects, 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; (that is to say,)

Short Title.

1. In citing this Act for any Purpose it shall be sufficient to use the Expression "The *Portadown, Dungannon, and Omagh Junction* Railway Act, 1863."

Same Meanings to Words, &c. in incorporated Acts as in this Act.

2. The several Words and Expressions to which by any Act wholly or partially incorporated with this Act Meanings are assigned have in this Act the same respective Meanings, unless there be in the Subject or Context something repugnant to or inconsistent with such Construction.

3. Subject

Power to raise additional Capital.

3. Subject to the Provisions of this Act, the Company may raise by Contribution among themselves, or by the Admission of other Persons as Subscribers to their Undertaking, or in part by each of those Means, the Sum of Seventy-five thousand Pounds in addition to the Sums of Money they are authorized to raise by any of their former Acts; and all and every Part of the Money so to be raised shall be applied in the Discharge of the Debts and Liabilities of the Company, and to any of the Purposes of the Railways, Stations, Works, and Objects by the recited Acts and this Act authorized.

Additional Capital to be divided into new Shares or Stock.

4. The Monies or Capital so to be raised may be divided into new Shares of any nominal Value, or the same may be raised by new Stock of the Company, and such new Shares or Stock shall be issued and disposed of or distributed in such Manner and (subject to the Provisions of this Act) upon such Terms, not being less than the nominal Amount of such Shares or Stock, and subject to such Provisions and Restrictions and with such Rights as any General Meeting of the Company shall from Time to Time direct or authorize or attach thereto, and all the Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845," which are incorporated with this Act, shall, so far as the same are applicable, apply to such new Capital and new Shares or Stock, and to the respective Proprietors thereof for the Time being, in the same Manner in all respects as if the same were (within the Meaning of the same Clauses and Provisions) original Capital and original Shares or Stock, except as to the Amount and Time of making and Payment of Calls, which (subject as herein-after mentioned) the Directors of the Company shall fix from Time to Time as they shall think proper.

Rights of new Shar holders to be in proportion to the Value of new Shares or Stock.

5. Subject to the Provisions of this Act and to the Terms of Issue of any new Shares or Stock to be created thereunder, every Person who shall accept or become entitled to any such new Shares or Stock shall in respect thereof be a Shareholder of the Company and be considered to have subscribed towards the Capital thereof, and of the Undertaking, to the Extent of the nominal Amount of the Shares or Stock so accepted by him in the Undertaking; and such new Shares or Stock shall confer on the respective Holders or Proprietors thereof Rights of voting and Qualifications in proportion to the aggregate nominal Value of such Shares, or Amount of such Stock, and not in proportion to the Number of such Shares; and for such Purposes every entire Sum of Twenty-five Pounds of such nominal value of Shares or Amount of Stock shall be equivalent to One Share of Twenty-five Pounds in the original Capital of the Company; and no Shareholder shall vote in respect of any Number of such new Shares or any Amount of such new Stock which shall constitute a less Interest in the Capital of the Company than Twenty-five Pounds.

6. With

Power to assign Preference to new Shares or Stock.

6. With the Consent of Three Fifths at least of the Votes of the Shareholders present, in person or by proxy, at any Meeting of the Company specially convened for the Purpose the Company may assign to any new Shares or Stock to be created or issued under this Act such fixed, fluctuating, or contingent Dividend in preference to or so as to rank or be paid *pari passu* with (if so determined) the Dividends upon any other Shares or Stock of the Company to be hereafter created for redeeming the present preferential Shares or Stock as any such Meeting may from Time to Time direct.

Power to issue preferential Shares or Stock with Condition of future Shares or Stock being admitted to like Preference.

7. If and whenever the Company think fit, with the like Consent of Shareholders as herein-before prescribed, they may issue any new Shares or Stock with any preferential Dividend or other special Privileges attached thereto, subject to the Condition that the Company from Time to Time thereafter, with the like Consent of Shareholders, may issue with the like preferential Dividend or other special Privileges, and with the like Priority or Preference any other new Shares or Stock for the Purpose of redeeming the present preferential Shares or Stock, and so that the whole of the new Shares or Stock then and from Time to Time thereafter so issued shall, whatever be the Amount from Time to Time thereof, form one and the same Class of the Company's Capital, entitling the several Holders of the several Portions of Stock or Shares thereof, and without regard to the Times of the Creation or Issue of the same, to the like preferential Dividend and other special Privileges, if any, and without any Preference or Priority as between themselves.

Terms, &c. to be stated on Certificates.

8. The Terms and Conditions to which any Preference Shares or Stock created under this Act are subjected by the Provisions of this Act shall be stated on the Certificate of every such Preference Share or Stock.

Limiting Amount of preferential Dividend.

9. The preferential Dividend on any Shares created under the Authority of this Act shall not exceed Five Pounds *per Centum per Annum*.

Preferential Dividends not to carry Arrears beyond One Year.

10. If in any Year ending the Thirty-first Day of *December* there shall not be Profits available for the Payment on any Shares created under the Authority of this Act of the full Amount of the preferential Dividend for that Year, no Part of the Deficiency shall be made good out of the Profits of any subsequent Year or out of any other Funds of the Company.

Saving existing Preference Shares.

11. Provided always, That any Preference or Priority in the Payment of Interest or Dividend which may be granted in respect of any new Shares created in pursuance of this Act shall not prejudice or affect any Preference

Preference or Priority in the Payment of Interest or Dividend on any other Shares or Stock which may have been previously granted by the Company by or in pursuance of or which may have been confirmed by any Act of Parliament passed prior to this Act, or which may otherwise be lawfully subsisting.

Calls.

12. Twenty Pounds *per Centum* on the nominal Amount of a Share shall be the greatest Amount of any one Call which the Company may make on the Holders of Shares created in respect of the Money by this Act authorized to be raised, and Three Months at the least shall be the Interval between successive Calls.

Unissued Shares and Stock may be cancelled.

13. If after having created any Shares or Stock for raising any Portion of the Capital of the Company the Company determine not to issue the whole of the Shares or Stock so created they may cancel the unissued Shares or Stock, and from Time to Time thereafter create in lieu thereof other Shares or Stock of an aggregate Amount not exceeding the aggregate Amount of the Shares or Stock so cancelled.

Power to raise Money by fully paid up Stock.

14. The Company may raise any Portion of the Capital of the Company by the Creation and Issue of Stock upon which the whole Amount shall be paid up at the Time of Issue.

Power to borrow on Mortgage.

15. The Company from Time to Time may raise by borrowing on Mortgage or by the Creation and Issue of Debenture Stock any Sums not exceeding in the whole the Sum of Twenty-four thousand eight hundred Pounds, in addition to the Sums which they are authorized to borrow under any of the existing Acts of Parliament relating to the Company, but no Part of such Sum shall be borrowed or raised until Shares or Stock for the whole of the Sum by this Act authorized to be raised by Shares or Stock shall have been taken up, and One Half of such Sum shall have been paid up, and the Company shall have proved to the Justice who is to certify under the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that Shares or Stock for all the Capital which the Company are by this Act authorized to raise by the Creation of new Shares or new Stock have been *bonâ fide* taken up and are held by Persons or their Assigns, and for which such Persons or their Assigns shall be legally liable, and One Half thereof shall have been actually paid up, of which Proof having been given the Certificate of such Justice under such Section shall be sufficient Evidence, and every Part of the Monies to be raised under this Act by borrowing or Debenture Stock, shall be applied in carrying into execution the Powers of the recited Acts and of this Act: Provided always, that all Mortgages granted by the Company under the Powers of any of the existing Acts of Parliament relating to the Company, and which shall be

Saving Rights of existing Mortgages.

subsisting at the passing of this Act, shall have Priority over all Mortgages granted by the Company under the Powers of this Act.

Limiting Power to raise Money.

16. The Company shall not raise under the Powers of this Act and of the Act of 1861 any further Sums of Money than shall be actually required by the Company for the Purpose of discharging their Debts and Liabilities, and for the making and Completion of the *Auchnacloy* Branch authorized to be made by the Act of 1861, and also for making such Improvements in the Railway, Stations, and Works of the Company as may be agreed upon between the Company and the *Ulster* Railway Company.

Certain Provisions of 8 & 9 Vict. c. 16. incorporated.

17. The Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following Matters; (that is to say,)

With respect to the Construction of the Act and of other Acts to be incorporated therewith;

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for Nonpayment of Calls;

With respect to the Remedies of Creditors of the Company against the Shareholders;

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of the borrowed Money into Capital;

With respect to the Consolidation of the Shares into Stock; and

With respect to the Provision to be made for affording Access to the Special Act by all Parties interested;

shall, so far as the same are not varied by the Provisions of this Act, be incorporated with and form Part of this Act, and apply to the Company and the Shareholders thereof, and to the Capital authorized by this Act.

Company may raise the Money raised or authorized to be raised on Mortgage or Bond by the Issue of Debenture Stock.

18. It shall be lawful for the Company if they think fit from Time to Time, with the Consent of Three Fifths at least of the Votes of the Proprietors present, in person or by proxy, at any Meeting of the Company specially convened for the Purpose, to raise all or any Part of the Monies which they shall for the Time being have raised or be authorized to raise on Mortgage or Bond by the Creation and Issue at such Times, in such Amounts and Manner, on such Terms, subject to such Conditions, and with such Rights and Privileges as the Company shall with such Consent resolve and determine, of Stock to be called Debenture Stock, instead of and to the same Amount as, or if so agreed in exchange for the whole or any Part of the Money which now is or at any

any Time hereafter may be owing by the Company, or which they may have Power to raise on Mortgage or Bond, and to attach to the Stock so created a fixed and perpetual preferential Interest payable half-yearly, on the First Day of *February* and the First Day of *August* in each Year, or at such other Periods as shall be determined at such Meeting, and to commence at once or at any future Time or Times when and as such Debenture Stock shall be issued or otherwise, as such Meeting shall resolve: Provided, that any preferential Interest or Dividend to be attached to any such Debenture Stock shall be at a Rate not exceeding Five Pounds *per Centum per Annum*.

Debenture Stock to be a Charge on the Undertaking prior to all other Shares or Stock of the Company.

19. The Debenture Stock to be created under the Authority of this Act and the Interest thereon shall be a Charge upon the general Undertaking of the Company prior to all Shares or Stock of the Company, and shall be transmissible and transferable as other Shares or Stock of the Company, and shall in all other respects have the Incidents of Personal Estate.

Interest on Debenture Stock to be a primary Charge over all other Stock and Dividends.

20. The Interest on such Debenture Stock shall have Priority of Payment over all Interest or Dividends on any Shares or Stock of the Company, whether ordinary or preference or guaranteed, and shall rank next to the Interest payable on the Mortgages or Bonds for the Time being of the Company; but the respective Holders of such Debenture Stock shall not as between themselves be entitled to any Preference or Priority.

Arrears may be enforced by Appointment of a Receiver.

21. If within Thirty Days after the Interest on the Debenture Stock is payable, and after Demand thereof in Writing the same be not paid, any of the Holders of such Debenture Stock holding individually or collectively at least Five thousand Pounds in nominal Amount thereof may (without Prejudice to the Right to sue for the Interest so in arrear in any Court of competent Jurisdiction) require the Appointment of a Receiver.

Mode of appointing Receiver.

22. Every Application for such a Receiver shall be made to Two Justices, and on any such Application such Justices by Order in Writing after hearing the Parties may appoint some Person to receive the whole or a competent Part of the Sums liable to the Payment of such Interest, until all the Arrears of such Interest then due on such Stock with all Costs including the Charges of receiving the Tolls or Sums be fully paid; and upon such Appointment being made all such Tolls or Sums shall be paid to and received by the Person so appointed, and the Money so to be received shall be so much Money received by or to the Use of the several Persons interested in the same, according to their several Priorities; and

so

so soon as the full Amount of such Interest and Costs has been so received the Power of such Receiver shall cease: Provided always, that the Receiver shall distribute among all the Proprietors of such Stock to whom Interest is in arrear, according to their respective Priorities, the Monies which so come to his Hands: Provided also, that the Receiver shall apply a sufficient Part of such Monies in or towards Satisfaction, according to their respective Priorities, of the Interest on the Mortgages and Bonds (if any) having respectively any Priority or Preference over the Interest so in arrear.

Arrears may be recovered by Action or Suit.

23. If the Interest on any such Debenture Stock shall be in arrear for Thirty Days next after any of the respective Days whereon the same shall be due and unpaid after Demand made, the Holder for the Time being of such Debenture Stock may without Prejudice to his Power to apply for the Appointment of a Receiver recover such Arrears with Costs by Action or Suit against the Company in any Court of competent Jurisdiction.

Debenture Stock to be registered.

24. The Company shall cause Entries of the Debenture Stock from Time to Time created to be made in a Register to be kept for that Purpose, wherein they shall enter the Names and Addresses of the several Persons and Corporations from Time to Time entitled to any such Debenture Stock, with the respective Amounts of such Stock to which such Parties shall be respectively entitled, and such Register shall be accessible for Inspection and Perusal at all reasonable Times to every Mortgagee or Bondholder, Debenture, Share, or Stock Holder, or other Share or Stock Holder of the Company, without the Payment of any Fee or Charge.

Mortgages not affected by this Act.

25. Nothing herein contained, save as herein expressly enacted, shall in any Way prejudice or affect any Mortgages or Bonds which may have been or may hereafter be granted by the Company, or prejudice or affect the Powers of the Company of raising Money on Mortgage or Bond; but the Holders of all such Mortgages and Bonds shall during the Continuance thereof respectively be entitled to the same Priorities, Rights, and Privileges in all respects as they would have been entitled to if this Act had not been passed.

Holders of Debenture Stock not to vote.

26. The Debenture Stock by this Act authorized to be created shall not entitle the Holders thereof to be present and vote at any Meetings of the Company, but shall in all respects not otherwise by this Act provided for be taken and considered as entitling such Holders to the Rights and Powers of Mortgagees of the Undertaking other than the Right to require

Repayment

Repayment of the Principal Money paid up in respect of such Debenture Stock.

Accounts of Debenture Stock Money and its Application to be kept.

27. Separate and distinct Accounts shall be kept by the Company, showing how much Money has been received for or on account of the said Debenture Stock, and how much Money borrowed or owing on Mortgage or Bond, or which they have Power so to borrow, has been paid off by such Debenture Stock or raised thereby, instead of being borrowed on Mortgage or Bond.

Borrowing Powers extinguished to extent of Debenture Stock created.

28. The Powers of borrowing and re-borrowing by the Company shall to the Extent of the Money raised by the Issue of the Debenture Stock be extinguished.

Interest not to be paid on Calls paid up.

29. It shall not be lawful for the Company, out of any Money by this Act authorized to be raised by Calls in respect of Shares or by the Exercise of any Power of borrowing to pay Interest or Dividend to any Shareholder on the Amount of the 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 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 Companies Clauses Consolidation Act, 1845," in that Behalf contained.

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

30. It shall not be lawful for the Company, 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, 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 Company to construct any other Railway or to execute any other Work or Undertaking.

Railways not exempt from Provisions of present and future General Acts.

31. Nothing herein contained shall be deemed or construed to exempt the Railway from the Provisions of any General Act relating to Railways, or to 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 and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges authorized by the recited Act or of the Rates for small Parcels.

The Portadown, Dungannon, and Omagh Junction Railway Act, 1863.

Expenses of Act.

32. All the Costs, Charges, and Expenses of applying for and passing this Act, or preparatory or incident thereto, shall be paid by the Company.

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