



CHAPTER xxiii.

An Act to authorise alterations of the Gauge of the Letterkenny Railway and of the Londonderry and Lough Swilly Railway, for extending the periods limited for the compulsory purchase of certain lands by the Letterkenny Railway Company, and for the completion of that Company's Railways, to authorise agreements between them and the Londonderry and Lough Swilly Railway Company; and for other purposes. [29th June 1880.]

A.D. 1880.

WHEREAS by the Letterkenny Railway Act, 1860, (in this Act called "the Act of 1860,") the Letterkenny Railway Company (in this Act called "the Company") were incorporated for making a railway from Letterkenny to the Londonderry and Enniskillen Railway, with a capital of £100,000 in shares, and power to borrow £33,300 on mortgage:

23 & 24 Vict.
c. xcix.

And whereas by the Letterkenny Railway Act, 1863, (in this Act called "the Act of 1863,") the Company were empowered to construct a deviation railway to connect their railway with the railway of the Londonderry and Lough Swilly Railway Company (in this Act called "the Lough Swilly Company"):

26 & 27 Vict.
c. cxvi.

And whereas by the Letterkenny and Londonderry and Lough Swilly Railway Companies Act, 1866, (in this Act called "the Act of 1866,") the Company were empowered to raise a further sum of £50,000 by shares, and to borrow on mortgage the further sum of £16,500:

29 & 30 Vict.
c. lx.

And whereas by the Letterkenny Railway Act, 1871, (in this Act called "the Act of 1871,") the powers of the Company to borrow money under the Acts of 1860 and 1866 were repealed, and the Company were empowered to borrow on mortgage £100,000 to be applied as therein mentioned, and to create debentures not exceeding in amount £23,000 to rank after the mortgages for the said sum of £100,000, and to bear interest at the rate of £5 per centum

34 & 35 Vict.
c. cxlviii.

A.D. 1880. — per annum, in lieu of certain bonds granted to the Company's contractors in respect of the like sum of £23,000 expended upon the Company's undertaking by such contractors :

39 & 40 Vict.
c. cx. And whereas by the Letterkenny Railway Act, 1876, (in this Act called "the Act of 1876,") the sum of £100,000 which the Company were authorised to borrow by the Act of 1871 was divided into three classes, to be called respectively the first, the second, and the third mortgage debts, and to consist respectively of £50,000, £35,000, and £15,000, and provision was made for securing the payment of any deficiency in the interest on the second mortgage debt of £35,000 by means of contributions from the rateable district described in the schedule to the Act, and being partly in the county of Donegal and partly in the city and county of Londonderry, to the treasurers of which county and city and county any surplus of the Company's net receipts, after payment of management and working expenses and interest on their several mortgage debts aforesaid, was directed to be paid until all moneys contributed by the rateable district should have been repaid :

37 & 38 Vict.
c. xlviii. And whereas by the Act of 1863 and by the Act of 1866, and by a warrant of the Board of Trade dated the 15th day of July 1869, and by the Act of 1871, and by the Letterkenny Railway (Extension of Time) Act, 1874, and by the Act of 1876, the periods for the purchase of lands for and for the completion of the Company's authorised railways were from time to time extended :

41 & 42 Vict.
c. cxcii. And whereas by the Letterkenny Railway Act, 1878, (in this Act called "the Act of 1878,") the period for the compulsory purchase of lands by the Company having then expired, those powers were revived and extended for a period of three years from the passing of the Act of 1878 (which received the Royal assent on the 22nd July 1878), as to certain lands and properties specified in the schedule to that Act which the Company had been empowered to purchase by the Act of 1860 and the Act of 1863 respectively, and the period for the completion of the Company's railways and works was extended until the 30th day of June 1881, and the Company were empowered in connexion with the railway authorised by the Act of 1863 to divert certain roads and to purchase lands compulsorily for that purpose :

And whereas, notwithstanding the special powers granted by the Acts above recited, the Company have been wholly unable to raise the funds necessary for the completion of their railways, which were authorised to be constructed upon the standard Irish gauge of 5 feet 3 inches, but there is reason to believe that if the Company be authorised to construct their railways upon the reduced gauge herein-after mentioned they will be able to raise the money

[43 & 44 VICT.] *Letterkenny Railway Act*, 1880. [Ch. xxiii.]

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(estimated to amount to £68,750) necessary for completing their railways :

And whereas the non-completion of the Company's railways would be most injurious to the public and to the landowners upon whose property those railways have been partly made :

And whereas under the circumstances aforesaid it is expedient that the Company be authorised to complete their railways upon a gauge not exceeding 3 feet nor less than 2 feet, and that the Lough Swilly Company be empowered so to reduce the gauge upon their railway, or to lay down a third rail thereon, as to afford uninterrupted communication between the Company's railways and the city of Londonderry :

And whereas it is expedient that the periods limited by the Act of 1878 for the compulsory purchase of lands for the purpose of the works authorised by that Act be extended, and that the period limited by the same Act for the compulsory purchase of the lands or property specified in the schedule to that Act, and the extended period by that Act limited for the completion of the railways and works of the Company, be respectively further extended :

And whereas the sum of £8,000 mentioned in section 40 of the Act of 1860 is no longer remaining deposited as security for the completion of the Company's railways, and it is expedient that such provision be made as is herein-after in that behalf contained for securing such completion :

And whereas the construction of the Company's authorised railways would be highly advantageous to the lands and property through which they will pass; and it is expedient that such special powers with reference to contributions and otherwise as are in this Act contained should be conferred upon tenants for life of and other persons having limited estates or interests in such lands and property :

And whereas it is expedient that the Company and the Lough Swilly Company be empowered to enter into and carry into effect agreements as in this Act provided :

And whereas the objects of this Act cannot be attained 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 :

1. This Act may be cited as the *Letterkenny Railway Act*, Short title. 1880.

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Incorporation of parts of 26 & 27 Vict. c. 92.

Gauge of railways.

2. Part II. (relating to extension of time) and Part III. (relating to working agreements) of the Railways Clauses Act, 1863, are, except where expressly varied by this Act, incorporated with and form part of this Act.

3. Notwithstanding anything in the Act passed in the ninth and tenth years of the reign of Her present Majesty, chapter 57, intituled "An Act for regulating the gauge of railways," the Company may, subject to the provisions of this Act, construct or complete and maintain their authorised railways upon any gauge not wider than three feet or narrower than two feet, and all the provisions of the Acts relating to the Company shall be read and have effect as if the railways of the Company had been originally authorised to be constructed upon such reduced gauge.

Provided always, that where the land required for the completion of the Company's railways remains to be purchased, the Company shall purchase or acquire land sufficient for a railway of the gauge of five feet and three inches; and provided further, that the Company shall at all times, unless and until Parliament shall otherwise provide, retain in their hands or under their control lands of sufficient width to admit of the gauge of the Company's railways being widened (if Parliament shall hereafter require or authorise such widening) to the gauge of five feet three inches, and shall construct and complete all bridges over their railways of such spans as will admit of such widening without any structural alteration of such bridges.

Provision for money deposit.

4. The Company shall within three calendar months after the passing of this Act pay into the Bank of Ireland, in the name and with the privity of the Accountant-General of the Chancery Division of the High Court of Justice in Ireland (herein-after referred to as "the Court"), the sum of three thousand four hundred pounds (which sum and the securities in or upon which the same may be invested are herein-after referred to as and included in the expression "the deposit fund"), and if within the said period of three calendar months the said sum of money shall not be paid as aforesaid the powers of the Company under this Act for the completion of their railways shall cease and determine.

Deposit money to be repaid on the opening of Company's railways.

5. The deposit fund shall be repaid or retransferred to the Company upon the completion of their authorised railways and the opening of the same for the public conveyance of passengers within the further period limited by this Act for the completion of the said railways: Provided that if within that period the Company open any portion of their authorised railways for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade specifying the length of the portion of railway opened as

aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of railway so opened bears to the entire length of the said authorised railways, the Court shall, on the application of the Company, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in any Act to the contrary notwithstanding. A.D. 1880.

6. If the Company do not previously to the expiration of the further period limited for the completion of the authorised railways complete the same and open them for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid or transferred to the Company, shall be applicable, and after due notice in the "Dublin Gazette" shall be applied, towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railways, or any portion thereof, or who have been subjected to injury or loss in consequence of the time limited for the exercise of the compulsory powers of the Company for taking property having been extended by this Act, and for which injury or loss no compensation or inadequate compensation has been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court may seem fit; and if no such compensation is payable, or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof: Provided that until the deposit fund has been repaid or retransferred to the Company, or has become otherwise applicable, as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and

Application
of deposit.

A.D. 1880. as often as the same shall become payable, be paid to or on the application of the Company.

Gauge of
Lough
Swilly
Railway.

7. Notwithstanding anything in the said Act of the ninth and tenth years of the reign of Her present Majesty, chapter 57, the Lough Swilly Company may reduce the gauge upon which their railway is constructed, or 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 Company may in accordance with this Act be made or completed.

Extension of
time for
purchase of
lands.

8. The period limited by the Act of 1878 for the compulsory purchase of lands for the purpose of the works thereby authorised may be exercised at any time within but shall not be exercised after the expiration of two years from the passing of this Act, and for the purposes of the provisions incorporated with this Act of Part II. of the Railways Clauses Act, 1863, the works authorised by the Act of 1878 shall be deemed to be a railway.

Extension of
period for
compulsory
purchase of
lands.

9. Section 6 of the Act of 1878 shall be read and have effect for all purposes as if the words "the thirty-first day of July one thousand eight hundred and eighty-two" had been inserted therein instead of the words "two years from the passing of this Act."

Further ex-
tension of
time for com-
pletion of
railway.

10. Section 7 of the Act of 1878 shall be read and have effect for all purposes as if the thirtieth day of June one thousand eight hundred and eighty-three had been inserted therein instead of the thirtieth day of June one thousand eight hundred and eighty-one.

Special
powers to
persons
having
limited
estates, &c.
in lands
benefited by
railways, &c.

11. Any tenant for life of or other person having a limited estate or interest in any lands which would or might be benefited or improved in value by or would derive facilities or accommodation from the construction or working of the railways or works of the Company, or any of them, or any part or parts thereof respectively (every such tenant for life or other person being included in the expression "limited owner" in this Act), may, with the sanction of the Commissioners of Public Works in Ireland, subscribe to and take and may hold shares in the undertaking of the Company, and raise the moneys necessary for that purpose by mortgage of and charge the same upon such lands and the fee simple and inheritance thereof, and may, with the like sanction, grant and convey to the Company any lands required for the construction of such railways or works, or any of them, or any part or parts thereof respectively, or any stations, sidings, roads, approaches, works, or conveniences connected therewith, either without payment or other consideration, or for such considerations, pecuniary or otherwise, and upon such terms and conditions as have been or may be agreed

upon between any such person and the Company; and the provisions of the Improvement of Land Act, 1864, "with regard to " the proceedings preliminary to the sanction of any improvement," and "with regard to the sanction of any improvements and the rights " arising thereunder," shall, so far as the same are applicable, apply to and in the case of any application to be made to the said Commissioners for their sanction to any matter or thing proposed to be done under this section, and for the purposes of those provisions any matter or thing for the sanctioning of which application shall be made shall be deemed to be an improvement of land within the meaning of the last-mentioned Act.

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27 & 28 Vict.
c. 72.

12. Every share which under the provisions of the last preceding section shall be taken by any limited owner shall be held upon the like uses and trusts, and for the same purposes and in the same manner as the lands in respect of which the share is authorised to be taken shall stand settled. The Company shall, with respect to every such share, make an entry or memorial in their register of shareholders of the uses, trusts, and purposes aforesaid, and, subject to the uses, trusts, and purposes affecting the share, the limited owner for the time being in respect thereof shall have all the other rights and powers of a shareholder in the Company: Provided always, that the Company shall not be bound to see to the application or be responsible for the non-application of any dividend received by any such limited owner.

Shares taken under preceding section by limited owners to be held upon the same trusts, &c.

13. The Company and the Lough Swilly Company may from time to time enter into and carry into effect agreements in reference to the alteration of the gauge of the railway of the Lough Swilly Company, or the laying down thereon of additional rails, in accordance with the provisions of this Act, and may also, subject to the provisions of Part III. herewith incorporated 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 matters or any of them:

Authorisation of agreements between the Company and the Lough Swilly Company.
36 & 37 Vict.
c. 73.

The working, use, management, and maintenance by the contracting companies, or either of them, of their respective railways and works, or any part or parts thereof respectively;

The management, regulation, interchange, collection, transmission, and delivery of traffic upon or coming from or destined for the railways of the contracting companies, or either of them;

The supply and maintenance, under any agreement for the railways and works being worked and used by the contracting

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companies, or any or either of them, of engines, stock, and plant necessary for and during the continuance of such agreement;

The fixing, collection, payment, appropriation, apportionment, and distribution of the tolls, rates, charges, income, and profits arising from the respective railways and works of the contracting companies, or either of them, or any part thereof; and

The employment of officers and servants.

Power to Lough Swilly Company to apply funds, &c.

14. For any of the purposes of this Act relating to the Lough Swilly Company, and of any agreement or agreements to be made between them and the Company as aforesaid, the Lough Swilly Company may from time to time apply their corporate funds and revenues, and any moneys which by any Act or Acts they are authorised to raise, and which are not by the Acts authorising the same to be raised made applicable for any special purposes, or being so made applicable are not required for such special purposes.

Saving former Acts.

15. Except as in this Act expressly provided, nothing in this Act contained or done under the powers of this Act shall be deemed or construed to prejudice or affect any powers of the Company or the Lough Swilly Company respectively in relation to their respective undertakings.

Provisions as to general Railway Acts.

16. Nothing in this Act contained shall exempt the Company or the Lough Swilly Company, or their respective railways, 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.

Expenses of Act.

17. 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.