



ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. ccxxviii.

An Act to enable the *Londonderry and Lough Swilly* Railway Company to extend their Railway towards the City of *Londonderry*; to raise additional Capital; and for other Purposes.

[25th July 1864.]

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 authorized to make and maintain a Railway from *Lough Swilly* in the County of *Donegal* to the River *Foyle* near *Londonderry*: And whereas the Company by "the *Lough Swilly* Railway (Deviation) Act, 1859," herein-after called "The Act of 1859," were authorized to deviate and alter Portions of their said Railway, and the said Railway is now completed and open for Traffic: And whereas it is expedient that the Company should be empowered to extend their Railway authorized by the Act of 1859 towards the City of *Londonderry*: And whereas Plans and Sections describing the proposed Extension Railway and Works, together with a Book of Reference to such plans containing the Names of the Owners or reputed Owners, [local.]

16 & 17 Vict.
c. liv.

22 & 23 Vict.
c. l.

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Lessees or reputed Lessees, and Occupiers of the Lands required for the said Railway and Works, have been deposited with the Clerks of the Peace for the City and County of *Londonderry* and the County of *Donegal* respectively: And whereas it is expedient that the Company be authorized to raise additional Capital by Shares and by borrowing, and to cancel forfeited Shares in the existing Capital of the Company, and to create and issue new Shares with a Preference Dividend or other Rights and Privileges attached: And whereas no Preference or Priority of Interest or Dividend, or other Advantages on or in respect of any Shares in the Company, has been granted by the Company in pursuance of any Act of Parliament or otherwise, nor is any such Preference or Priority in any Manner subsisting; but the Objects 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 whatsoever, it shall be sufficient to use the Expression, "The *Lough Swilly* Railway (Extension) Act, 1864."

8 & 9 Vict.
cc. 18. & 20.,
14 & 15 Vict.
c. 70.,
23 & 24 Vict.
cc. 97. and
106., and
26 & 27 Vict.
c. 92. incor-
porated.

2. "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," so far as the same are consistent with "The Railways Act (*Ireland*), 1851," as amended by "The Railways Act (*Ireland*), 1860," "The Railways Clauses Consolidation Act, 1845," "The Railways Act (*Ireland*), 1851," and "The Railways Act (*Ireland*), 1860," and Part I. (relating to Construction of a Railway) of "The Railways Clauses Act, 1863," shall (except in so far as the Provisions of those Acts and Part of Act are expressly varied or excepted by this Act) be incorporated with and form Part of this Act.

Interpretation.

3. The several Words and Expressions to which in the Acts incorporated wholly or partially with this Act Meanings are assigned shall have in this Act the same respective Meanings, unless excluded by the Subject or Context.

Certain Pro-
visions of
8 & 9 Vict.
c. 16. and
26 & 27 Vict.
c. 118. in-
corporated.

4. The Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845,"

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 Means of enforcing the Payment of Calls;

With

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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 Consolidation of the Shares into Stock ;

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

With respect to the making of Dividends ; and

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

And Part I. (relating to Cancellation and Surrender of Shares) and Part II. (relating to additional Capital) of "The Companies Clauses Act, 1863," shall be incorporated with this Act, and shall in all Particulars not otherwise provided for by or under the Powers of this Act respectively apply to all Shares and Capital created, and to all Monies borrowed and Mortgages granted under the Powers of this Act ; and in construing those Clauses and Provisions in connexion with this Act, the Expression "the Special Act" shall mean this Act ; the Expression "the Company" shall mean the *Londonderry and Lough Swilly* Railway Company ; the Expression "the Undertaking" shall mean the Undertaking of the Company ; and the Term "Superior Courts" shall include any County or other Court having by Law cognizance of the Action ; and all other Words and Expressions to which by "The Companies Clauses Consolidation Act, 1845," Meanings are assigned, shall in the incorporated Clauses and Provisions of that Act and in this Act have the respective Meanings so assigned to them, unless in so far as there may be, in either Case, something in the Subject or Context repugnant to or inconsistent with such Construction.

5. Subject to the Provisions in this and the Acts incorporated herewith contained, the Company may make and maintain, in the Lines and upon the Lands delineated on the Plans and described in the Book of Reference, and according to the Levels defined on the Sections, the Railway and Works herein-after described, and all proper Stations, Works, and Conveniences connected therewith, and may enter upon, take, and use such of the said Lands, Houses, and Hereditaments as shall be necessary for these Purposes.

Works to be constructed according to deposited Plans.

6. Provided also, That the Company shall not without the previous Consent in Writing of the Governor and Assistants, *London*, of the New Plantation in *Ulster* within the Realm of *Ireland*, commonly called the *Irish* Society, be at liberty to take or use for the Purposes of their Railway, and the Stations, Works, and Conveniences connected therewith by this Act authorized, any Lands other than the Lands following ; (that is to say,)

Certain Lands not to be taken without Consent of the *Irish* Society.

From

The Lough Swilly Railway (Extension) Act, 1864.

From the existing Line of Railway to the Point A, shown on the Plan signed by *W. N. Massey* Esquire, Chairman of the Committee of the House of Commons to which this Act was referred, and herein-after directed to be deposited with the Clerk of the Peace for the City of *Londonderry*, such of the Land lying between the Red dotted Line shown on the said Plan and the *Strand Road*, also shown thereon, as the Company may require :

From the said Point A to the Point B marked on the said Plan, a Strip or Piece of Land not exceeding Thirty-five Feet in Width, according to a Line shown by a Red Line on the said Plan :

From the said Point B to the Point C marked on the said Plan, a Strip or Piece of Land not exceeding Thirty Feet in Width, along the Inland Side of and next adjoining to the Land which may be granted by the *Irish Society* to the *Londonderry* Port and Harbour Commissioners for public Quays :

From the said Point C to the Point E marked on the said Plan, such Land as will lie between a Line to be laid down from the said Point C to the said Point E at a Distance of Ninety Feet measured from the said *Strand Road*, and the Land which may be granted by the *Irish Society* to the said Port and Harbour Commissioners :

And the whole of the Land from the said Point marked E to the Point marked F on the said Plan, and lying between the said *Strand Road* and the Land which may be granted by the *Irish Society* to the said Port and Harbour Commissioners.

Plan to be deposited with the Clerk of the Peace for the City of *Londonderry*.

7. The said Plan shall be deposited with the Clerk of the Peace for the City of *Londonderry*, who is hereby required to receive the same, and such Deposit shall be deemed to have been made in pursuance of an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel the Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament, and the several Provisions of that Act* (except so far as the same shall be inconsistent with this Act), shall form Part of the Act.

As to Construction of Railway.

8. The Company shall construct the Line of Railway by this Act authorized on a Level with the public Quays now in course of Construction along the River *Foyle*, and so that the same may be freely and conveniently crossed by the Occupiers of any of the Lands lying between the *Strand Road* and the said public Quays, and shall, at the Request of the Owners in Fee of such last-mentioned Lands, leave the said Railway so far as may be required (except between the Points marked D and F on the said Plan) without any Fence or Fences,

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Fences, or, if the Railway or any Part thereof shall be fenced off, the Company shall, upon Request in Writing of the Owners in Fee of the said Land, from Time to Time remove any Fence or Fences which may have been erected, and as may be from Time to Time required by such Owners, so as to give free and uninterrupted Access from the said Lands or any Part or Parts thereof across the said Railway to the said public Quays, except between the said Points D and F, but this Provision shall not exonerate the Company from any Responsibility in respect of any Accident which may happen by reason of the Line of Railway or any Portion thereof not being fenced off.

9. The Company shall make and construct their Terminus on the Lands adjoining the Road at the Point F on the said Plan, and shall not open any Portion of the Line of Railway by this Act authorized until the whole Line shall have been constructed and be ready to be opened for public Traffic.

Railway not to be opened till whole Line completed.

10. The *Irish* Society, or their Lessees or Tenants, shall be at liberty to construct any Line or Lines of Railway which they may think fit, for the Transport of Goods from the said Railway to any Warehouses or Buildings which may be erected on the Lands of the *Irish* Society; and the Company shall at their own Expense make and construct all proper and necessary Junctions at or near Points B and C on the said Plan with the said Line of Railway, and afford all proper Facilities for conveying Goods from the Line of Railway of the Company to and from any Line of Railway to be constructed as in this Clause mentioned.

Power to make Railway to Warehouses of Irish Society.

11. The Company shall at their own Expense, within Six Months after receiving Notice from the *Irish* Society, make and construct a public Road, with level Crossing over the Railway, Forty Feet wide, from the *Strand Road* to the Quays, at the Point marked A on the said Plan, near to the Head of the Graving Dock, and maintain the same with proper paved Crossings, Gates, and Fences, unless the *Irish* Society shall, before the Expiration of such Period of Six Months, assent in Writing to the making and constructing of another public Road then approved of by them in lieu of the said public Road; and in such Case the Company shall at their own Expense, within Six Months after such Assent shall be given by the *Irish* Society, make and construct such public Road with level Crossing as shall have been approved of by the *Irish* Society.

Road to be made from Strand Road to Quay.

12. The Company shall not move or propel, or permit to be moved or propelled, on any Portion of the Railway by this Act authorized, any Carriage, Engine, or Truck at any greater Rate of Speed

As to Rate of Speed at certain Point on Line.

[local.]

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Speed

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Speed than Six Miles an Hour, and shall not permit or suffer any Carriage, Engine, or Truck to stand or be at rest upon the said Railway so as in any Manner to hinder or impede the free crossing of the said Railway from the Lands between the said Railway and the *Strand Road* to the said public Quays, except between the Points marked D and F on the said Plan, and shall not erect any Building or permit or suffer any Obstruction to be made to the free Access across the said Line of Railway, except between the said last-mentioned Points; and if the Company shall, in breach of this Enactment, move or propel, or permit to be moved or propelled, any Carriage, Engine, or Truck at any greater Rate of Speed than as aforesaid, or permit or suffer any Carriage, Engine, or Truck to stand or be at rest as aforesaid, the Company shall from Time to Time, pay to the *Irish Society* the Sum of Five Pounds for or in respect of any and every Carriage, Engine, and Truck so moved or propelled, or which the Company shall from Time to Time permit or suffer so to stand or be at rest as aforesaid, and shall also pay to the *Irish Society* the Sum of Five Pounds *per Day* for every Day during which any Building or Obstruction shall be permitted or suffered contrary to this Provision.

Description
of Railway
and Works.

13. The Railway and Works by this Act authorized shall be the following; (that is to say,)

A Railway commencing by a Junction with the Line authorized by the Act of 1859 at a Point about Sixty Yards distant from the Northern End of the Station House lately erected by the Company near the Graving Dock of the *Londonderry* Port and Harbour Commissioners, in an Extra-parochial Place adjoining the Parish of *Templemore* in the City and County of *Londonderry* and terminating in an Enclosure (in the Occupation of the Reverend *James Crawford*) abutting on a Road or Street lately constructed by the *Londonderry* Port and Harbour Commissioners, and connecting the Road known as the *Strand Road* with the Quays of the said Commissioners at a Point within said Enclosure about Sixty-seven Yards from the Entrance Gate to *Foyle College*, in the Townland of *Edenballymore*, Parish of *Templemore*, and in the City and County of *Londonderry*.

Railway and
Works to
form Part
of Com-
pany's Un-
dertaking.

14. The Railway and Works by this Act authorized shall form Part of the Undertaking of the Company, and the Company may apply for the Purposes of this Act any Money by any Act relating to the Company authorized to be raised which they have raised or may hereafter raise, and which Monies may not be required for the Purposes of such Act or Acts.

15. Subject

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15. Subject to the Provisions in "The Railways Clauses Consolidation Act, 1845," with reference to the Construction of Bridges over Railways contained, the Company shall carry over the Railway authorized by the Act of 1859 the following public Roads by means of Bridges or Arches, instead of crossing the same as they are now crossed on the Level; that is to say, the public Road leading from the *Buncrana Road* to the House and Farm of *William O'Doherty* of the *Parks*, in the Townland of *Ballymagrorty* in the Parish of *Templemore* and City and County of *Londonderry* and numbered 16 on the Plans deposited in the Month of *November* 1858 in respect to the said Act; the public Road leading from *Londonderry* to *Buncrana* in the Townland of *Carrowreagh* in the Parish of *Burt* and County of *Donegal*, and numbered 4 on the said deposited Plans; the public Road leading from the *Buncrana Road* to the *Burt Road* in the Townland of *Skeoge* in the said last-mentioned Parish and County, and numbered 13 on the said deposited Plans; the public Road in the Extra-parochial Land adjoining the Townland of *Pennyburn* numbered 6 on the said deposited Plans, and in the said Townland of *Pennyburn* in the Parish of *Templemore*, and City and County of *Londonderry*, numbered 1 on the said deposited Plans; and when the said last-mentioned Road is so carried over the Railway as aforesaid, the Company may run over, propel, or draw Carriages, and work the Traffic with Locomotive Steam Engines, upon that Portion of their authorized Railway which lies between the Point where the said Road is now crossed on the Level, and the *Londonderry* Terminus of the said Railway, anything contained in the Twelfth Section of the Act of 1859 to the contrary in anywise notwithstanding; and the Company may enter upon, take, and use such of the Lands and Hereditaments delineated on the Plans and described in the Books of Reference deposited with respect to the Application for this Act as shall be necessary for these Purposes.

Company to carry certain Roads over their authorized Railway by Bridges.

When certain Road carried over Railway, Company may use Locomotives over Portion of their Line.

Power to enter upon and take Lands.

16. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that a Certificate of any Omission, Mis-statement, or erroneous Description in certain Plans and Books of Reference therein referred to should be deposited with the Postmaster of the Post Towns in or nearest to the several Parishes in *Ireland* in which the Lands affected thereby should be situate; and it is also provided that certain Plans and Sections of such Alterations in the original Plans and Sections as shall have been approved of by Parliament should also be deposited with such Postmasters, and be retained and produced by them for Inspection in manner therein mentioned: And whereas, in compliance with the present Standing Orders of both Houses of Parliament, the several Plans, Sections, and other Documents heretofore required to be deposited with the Postmasters of the Post Towns in *Ireland* are now deposited with the Clerks

As to Deposit of Plans with Clerks of Unions.

of

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of the Unions instead of such Postmasters: Therefore, with reference to this Act, all the Provisions of "The Railways Clauses Consolidation Act, 1845," relating to the Matters aforesaid, shall be read and construed as if the Expression "Clerks of the Unions within such Parishes are included in *Ireland*" or the Words "Clerks of the Unions" had been used and inserted in such Act in lieu of the Expression "Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*" or in lieu of the Word "Postmasters," as the Case may be.

Powers for compulsory Purchases limited.

17. The Powers of the Company for the compulsory Purchase of Lands for the Purposes of the Railway shall not be exercised after the Expiration of Two Years from the passing of this Act.

Period for Completion of Railway.

18. The Railway and Works hereby authorized shall be completed within Four Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for making the said Railway and Works shall cease to be exercised, except as to so much of the said Railway and Works as shall then have been completed.

Penalty in case Railway not completed.

19. In case the Railway by this Act authorized to be constructed shall not be completed and opened for public Traffic within the Period of Four Years from the passing of this Act, the Company shall be liable to a Penalty of Fifty Pounds *per Day*, to be recovered as a Debt due to the Crown, for every Day after the said Period until the Line shall be completed and opened for public Traffic: Provided always, that no such Penalty shall accrue in respect of any Time during which it shall appear by the Certificate of the Board of Trade that the Company was prevented from completing or opening the Railway by reason of any unforeseen Accident or Circumstance beyond their Control, but the Want of sufficient Funds shall not be held to be a Circumstance beyond their Control.

Tolls for maximum Charges.

20. The Company may demand and take the same Tolls for the Use of the Railway by this Act authorized, and for Carriages, Trucks, and locomotive Power supplied by them for Use thereon, as they are authorized to demand and take under and by virtue of the several Acts relating to their Undertaking, and as if the Railway hereby authorized formed Part of the Railway authorized by those several Acts.

Power to create new Shares.

21. The Company may from Time to Time (in addition to the Sums of Money which they are authorized to raise by their several Acts) raise by the Creation of new Ordinary Shares in their Undertaking any further Sums not exceeding in the whole Twenty thousand Pounds.

22. It

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22. It shall not be lawful for the Company to issue any Share to be created under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share shall have been paid up in respect thereof.

Shares not to issue until One Fifth paid up.

23. The Dividends on the new Shares to be created under the Powers of this Act shall be calculated upon the Amount of Calls for the Time being paid thereon, and every Proprietor of such new Shares shall be a Shareholder of the Company, and be entitled to a Dividend with the Proprietors of the Ordinary Shares of the Company proportioned to the whole Amount so paid thereon respectively.

As to Dividends on new Shares.

24. The Company may raise the said Sum of Twenty thousand Pounds, or any Part thereof, by the Creation of preferential Shares, and may also attach a Preference or Priority in the Payment of Dividend to any Shares created under the Powers of the recited Acts which may have been surrendered, cancelled, forfeited, or be in the Hands of or held for the Company, or which remain unissued, to an Amount not exceeding the Sum of Twenty-five thousand Pounds; and all such preferential Shares may be created and issued at any fixed or variable Rate of Dividend (not exceeding Six Pounds *per Centum per Annum*) as the Company may determine.

Power to attach Preference to new Shares.

25. The Proprietors of such new Shares and Preference Shares respectively shall be entitled to such Number of Votes in respect thereof as the nominal Amount represented by such Shares would have entitled them to if they had been possessed of original Shares of the same Amount in the Company.

As to the Votes of Proprietors of new Shares.

26. The Company may from Time to Time, under the Powers of this Act, borrow on Mortgage any additional Sums of Money, not exceeding in the whole the Sum of Six thousand six hundred Pounds; but no Part of that Sum shall be borrowed until the whole of the additional Capital of Twenty thousand Pounds herein-before authorized to be raised shall have been subscribed for, and One Half thereof shall have been actually 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 all the additional Capital of Twenty thousand Pounds has been subscribed for or taken *bonâ fide*, and that all the Shares have been taken, and that Twenty *per Cent.* at least has been paid on account of each separate Share on or before the Issue and Acceptance thereof, and that they are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same, of which Facts the Certificate of such Justice under that Section shall be sufficient Evidence.

Power to borrow on Mortgage.

[Local.]

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27. All

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Former
Bonds or
Mortgages
to have
Priority.

27. All existing Mortgages or Bonds granted by the Company before the passing of this Act shall during their Continuance have Priority over all Mortgages to be granted by virtue of this Act.

Application
of Money
raised.

28. All Money which the Company are by this Act authorized to raise either by Shares or by Mortgage shall be applied exclusively for the Purposes authorized by this Act and for the general Purposes of the Undertaking of the Company.

Receiver for
Mortgagees.

29. The Mortgagees of the Company under this Act may enforce the Payment of the Arrears of Interest, or of Principal and Interest due on their Mortgages, by the Appointment of a Receiver, and the Amount to authorize a Requisition for a Receiver is Five hundred Pounds.

Interest or
Dividend
not to be
paid on
Calls.

30. The Company shall not, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls in respect to Shares, or by the Exercise of any Power of borrowing, pay Interest or Dividends to any Shareholder on the Amount of Calls made in respect of the Shares held by him in the Capital of the Company: Provided always, that nothing herein contained shall be deemed to prevent the Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of 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
Capital.

31. The Company shall not, out of any Money by this or any other Act relating to the Company authorized to be raised, pay or deposit any Sum of Money which by any Standing Order of either House of Parliament from Time to Time 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.

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

32. Nothing herein contained shall be deemed or construed to exempt the Railway and Works from the Provisions of any General Act relating to Railways, or to the better or 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, or of the Rates for small Parcels by this or the said recited Acts authorized.

33. Nothing

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

Saving
Rights of
the Irish
Society.

34. All the Costs, Charges, and Expenses of and incident to the obtaining and passing of this Act shall be paid by the Company.

Expenses
of Act.

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