



ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

Cap. xlv.

An Act to authorize a Deviation in the Line of the *Killarney and Valencia* Railway, and to continue and revive the Powers granted by “*The Killarney and Valencia Railway Act, 1847,*” for the compulsory Purchase of Lands, and to extend the Period by such Act limited for the Completion of the said Railway. [3d July 1851.]

WHEREAS an Act was passed in the Session of Parliament held in the Tenth and Eleventh Years of the Reign of Her present Majesty, intituled *An Act for making a Railway from the Town of Killarney in the County of Kerry to the Harbour of Valencia in the same County*, whereby the *Killarney and Valencia Railway Company* were incorporated, and authorized to make and maintain the said Railway: And whereas it is expedient that the said Company should be enabled to alter the Line of the said Railway, and to construct the new Line of Railway herein-after mentioned in lieu of a Portion of such Railway, and that the Powers by such Act granted for the compulsory Purchase of Lands and Houses required for the Purposes of the said Railway should be revived and continued,

[Local.] 7 G and

10 & 11 Vict. c. 63.

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and that the Period by such Act limited for the Exercise of the Powers therein contained for the Construction and Completion of the said Railway should be extended; but for the Purposes aforesaid the Authority of Parliament is necessary: 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,

Recited Act and this Act to be construed as One.

I. That the recited Act relating to the *Killarney and Valencia Railway*, as altered and amended by this Act, and this Act, shall be construed as One Act, and shall be carried into execution accordingly.

Powers of 8 & 9 Vict. cc. 18. and 20. extended to this Act.

II. That "The Railways Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Act, 1845," except so far as the same may be expressly varied by this Act, shall be incorporated with and form Part of this Act.

Power to alter Line of Railway as authorized by recited Act.

III. That it shall be lawful for the said Company to alter the Line of the said Railway, and to make, out of the Capital which they are by the said recited Act authorized to raise, a Railway, with all proper Works and Conveniences connected therewith, commencing in the Parish of *Aghadoe* in the County of *Kerry* at or near a Point marked Thirty-three Miles Two Furlongs on the Plans referred to in "The *Killarney and Valencia Railway Act, 1847*," and terminating by a Junction with the Line of the *Killarney Junction Railway* at or near the Second Furlong from the Termination of the last-mentioned Railway in the Parish of *Killarney* as described upon the Plans referred to in "The *Killarney Junction Railway Act, 1846*."

Railway to be made according to deposited Plans.

IV. Whereas a Plan and Section showing the Line or Situation and Levels of the said Railway and Works herein-before authorized to be made, together with a Book of Reference to the said Plans, containing the Names of the Owners or reputed Owners, and Lessees or reputed Lessees, and of the Occupiers of the Lands which may be required to be taken for the Purposes of the said Railway and Works, have been deposited for public Inspection with the Clerk of the Peace for the County of *Kerry*: Be it enacted, That, subject to the Provisions and Powers of Deviation in this Act, and in "The Railways Clauses Consolidation Act, 1845," contained, the said Railway and Works shall be made in the Line or Course and upon the Lands delineated on the said Plans and described in the said Book of Reference, and according to the Levels described upon the said Sections; and it shall be lawful for the Company to enter upon, take, and use such of the said Lands as shall be necessary for the Purposes aforesaid.

V. That

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V. That the Railway and Works by this Act authorized to be made shall be completed within Four Years from the passing of this Act, and on the Expiration of such Period the Powers by this and the said recited Act granted to the Company for executing the said Railway and Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Railway and Works as shall then be completed.

Period for
Completion
of Works.

VI. That the Railway by this Act authorized to be made shall form Part of the Undertaking of the *Killarney and Valencia* Railway Company, and as such shall be subject to the Provisions of the said recited Act relating thereto, so far as the same may be applicable.

Railway to
form Part of
the Killarney
and Valencia
Railway.

VII. That, subject to the Provisions in "The Railways Clauses Consolidation Act, 1845," contained with respect to the crossing of Roads on the Level, it shall be lawful for the said Company to carry and maintain the Railway by this Act authorized to be made across the Roads or Highways numbered as herein-after mentioned on the Plan deposited as aforesaid on the Level of the said Roads or Highways respectively; that is to say, the Road numbered Eleven on the said Plan in the Parish of *Aghadoe*, the Road numbered One hundred and fourteen on the said Plan in the said Parish of *Aghadoe*, and the Road numbered Twenty-five on the said Plan in the Parish of *Killarney*.

As to level
Crossings.

VIII. That for the greater Convenience and Security of the Public the Company shall erect and permanently maintain either a Station or Lodge at the Points where the Railway crosses the before-mentioned Roads on the Level; and the said Company shall be subject to and shall abide by all such Rules and Regulations, with regard to the crossing of such Roads on the Level, or with regard to the Speed at which Trains shall pass such Roads, as may from Time to Time be made by the Commissioners of Railways; and if the said Company shall fail to erect or at all Times maintain any such Station or Lodge, or appoint a proper Person to watch or superintend the Crossing at any such Point or Station, or to observe or abide by any such Rule or Regulation as aforesaid, they shall for every such Offence be liable to a Penalty of Twenty Pounds, and also to a daily Penalty of Ten Pounds for every Day such Offence shall continue after such Penalty of Twenty Pounds shall have been incurred.

Company to
erect a Sta-
tion or Lodge
at the Points
of crossing,
and to abide
by Regula-
tions of Com-
missioners of
Railways.

IX. That it shall be lawful for the Commissioners of Railways, if it shall appear to them to be necessary for the Public Safety, at any Time, either before or after the said Railway hereby authorized to be carried across the said Roads on the Level shall have been completed and opened for public Traffic, to require the said Company, within such

A Bridge
may be re-
quired to be
erected in
lieu of level
Crossing.

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such Time as the Commissioners shall direct, and at the Expense of the said Company, to carry either of the before-mentioned Roads either under or over the said Railway by means of a Bridge or Arch, in lieu of crossing the same on a Level, or to execute such other Works as under the Circumstances of the Case shall appear to the said Commissioners best adapted for removing or diminishing the Danger arising from any such level Crossing; but where any such Road shall be so carried either under or over the Railway it shall not be necessary for the Company to erect or maintain any Station or Lodge at the Point where such Road may be crossed, or to appoint any Person to watch or superintend the Crossing, nor shall they be liable to any of the aforesaid Penalties for Failure so to do.

Tolls.

X. That it shall be lawful for the said Company to demand and receive, in respect of the Use of the said Railway by this Act authorized to be made, and of the Engines and Carriages employed thereon, any Tolls and Charges not exceeding the maximum Rate of Tolls and Charges which they are authorized to demand and receive in respect of the Use of the Railway authorized to be made by the said recited Act.

Passengers
Luggage.

XI. That every Passenger travelling upon the said Railway by this Act authorized to be made may take with him his ordinary Luggage, not exceeding One hundred and fifty Pounds in Weight for First-class Passengers, Sixty Pounds in Weight for Second-class Passengers, and Forty Pounds in Weight for Third-class Passengers, without any extra Charge being made for the Carriage thereof.

Power to
abandon Part
of original
Line.

XII. That the said Company shall abandon the Formation of so much of the Railway authorized to be constructed by "The *Killarney and Valencia Railway Act, 1847*," as lies between a certain Point marked Thirty-three Miles Two Furlongs from the Terminus of such Railway at *Valencia* on the Plans referred to in such Act and the Termination of the said Railway in the Parish of *Killarney* as shown upon the same Plans; and all the Powers granted by the said Act, and the Acts incorporated therewith, for the Construction of such Portion of the said Railway, shall be and the same are hereby repealed.

Compensa-
tion to be
made where
Contracts
entered into
or Notice
given.

XIII. That in any Case where before the passing of this Act any Contract has been entered into or Notice given by the Company for purchasing any Lands which they were by the said recited Act empowered to purchase for the Purposes of constructing the Portion of Railway so authorized to be abandoned as aforesaid, the Company shall make to the Owners or Occupiers of and other Parties interested in such Lands full Compensation for all Injury or Damage sustained by

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by such Owners, Occupiers, and other Parties by reason of such Purchase not being completed, pursuant to such Contract or Notice; and the Amount and Application of such Compensation shall be determined in the Manner provided by "The Lands Clauses Consolidation Act, 1845," for determining the Amount and Application of the Compensation to be paid for Lands taken under the Provisions thereof.

XIV. That the Authority by this Act given for abandoning the Formation of the aforesaid Portion of Railway shall not prejudice or affect the Right of the Owner or Occupier of any Lands which the Company were so empowered to purchase as aforesaid to receive from the Company Compensation for any Damage that may have been occasioned by the Entry of the Company upon such Lands for the Purpose of surveying and taking Levels, and of probing or boring to ascertain the Nature of the Soil, or of setting out the Line of the Railway, pursuant to the Provisions for that Purpose in the said "Lands Clauses Consolidation Act" contained; but the Company shall not be liable to make Compensation in any of the Cases aforesaid unless the Claim for such Compensation shall have been made within Six Months from the passing of this Act.

Rights of Owners, &c. to Compensation for Entry to survey and take Levels.

XV. That all the Provisions of "The *Killarney and Valencia* Railway Act, 1847," and of the Acts incorporated therewith, which relate to the compulsory Purchase or taking of or Entry upon Lands required by the *Killarney and Valencia* Railway Company for the Purposes of their Undertaking (except as to so much thereof as is by this Act authorized to be abandoned) shall be and the same are accordingly hereby revived; and the Period limited by the said recited Act for the Exercise of such Powers shall be and the same is accordingly hereby extended for a Period of Three Years from the passing of this Act, during which last-mentioned Period it shall be lawful for the said Company, subject to the Provisions of such Acts, to enter upon, purchase, and take the said Lands or any Part or Parts of the same.

Revival and extending of Time for purchasing Lands.

XVI. That the last preceding Enactment shall not prejudice or affect any Contract or Agreement for the Purchase or taking of Lands entered into before the passing of this Act, but where, before the passing of this Act, any such Contract shall have been entered into or Notice given by the Company for purchasing, taking, or using any Lands for the Purposes of their Undertaking, any such Contract and Notice respectively shall be construed and take effect, and the same Proceedings shall be had thereunder, and all Parties thereto shall be entitled to the same Rights and Remedies in respect thereof, both in Law and in Equity, as if this Act had not been passed.

Existing Contracts not to be prejudiced.

[Local.]

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XVII. That

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Parties
aggrieved by
Extension of
Time may
have Com-
pensation.

XVII. That the Justices of the Peace, Arbitrators, Umpires, or Juries respectively, as the Case may be, who, under the Provisions of the said recited Acts or any of them, shall award or assess the Compensation to be made by the said Company to the Owners or Occupiers or other Persons interested in any Lands to be taken or used under the Powers of this Act for the Purposes of the Undertaking of the said Company, shall, in estimating the Amount of such Compensation, have regard to and make Compensation for the additional Damage, if any, sustained by such Owner, Occupiers, or other Persons by reason of such Extension of Time having been granted as aforesaid.

Period for
the Comple-
tion of
Works ex-
tended.

XVIII. That the Period limited by "The *Killarney and Valencia Railway Act, 1847*," for the Completion of the Railway and Works thereby authorized to be made, shall be and the same is accordingly hereby extended for a Period of Four Years from the passing of this Act, during which last-mentioned Period it shall be lawful for the Company to construct the said Railway and Works, except as aforesaid, subject to the Provisions of the said Act and the Acts incorporated therewith.

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

XIX. That it shall not be lawful for the said Company, out of any Money by any Act relating to the said 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 any Act authorizing the said Company to construct any other Railway or execute any other Work or Undertaking.

Interest not
to be paid on
Calls paid up.

XX. That it shall not be lawful for the said Company, out of any Money by the recited Act or any other Act relating to the said Railway Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest or Dividend to any Shareholder on the Amount of the Calls made in respect of Shares held by him in the Capital by this Act authorized to be raised: Provided always, that nothing herein-before contained shall be deemed to prevent the said Company from paying to any Shareholder such Interest on Money advanced by him beyond the Amount of the Calls actually made as shall be in conformity with the Provisions in "The *Companies Clauses Consolidation Act, 1845*," in that Behalf contained.

Railway to
be subject to
Provisions of
1 & 2 Vict.
c. 98.,

XXI. Whereas an Act was passed in the Session of Parliament held in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway*; and

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and another Act was passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways*; and another Act was passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*; and another Act was passed in the Eighth Year of the Reign of Her said Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways*; and Two other Acts were passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her said Majesty, intituled respectively *An Act for regulating the Gauge of Railways*, and *An Act for constituting Commissioners of Railways*: Be it enacted, That nothing in this Act contained shall be held to exempt the Railway by this and the said recited Act authorized to be made, or the said Company, from the Provisions of the said several Acts respectively, but that such Provisions shall be in force in respect of the said Railway and Company so far as the same shall be applicable thereto.

3 & 4 Vict.
c. 97.,
5 & 6 Vict.
c. 55.,
7 & 8 Vict.
c. 85.,
9 & 10 Vict.
cc. 57. & 105.

XXII. That nothing herein contained shall be deemed or construed to exempt the Railway by this or the said recited Act authorized to be made from the Provisions of any General Act relating to such Acts or 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 and this Act.

Railway not
exempt from
Provisions
of future
General Acts.

XXIII. That the Costs, Charges, and Expenses of and incident to the passing of this Act shall be paid by the said Company.

Expenses of
Act.

XXIV. That in citing or referring to this Act in other Acts of Parliament, and in Pleadings, legal Instruments, or other Proceedings, it shall be sufficient to use the Expression "*The Killarney and Valencia Railway Act, 1851.*"

Short Title.

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