



CHAPTER clviii.

An Act to revive and amend the powers of the Killorglin Railway Act, 1871, for making a Railway in the county of Kerry from the Farranfore Station of the Great Southern and Western Railway to Killorglin, to provide for a baronial guarantee with reference to the Railway; and for other purposes. A.D. 1880.
[12th August 1880.]

WHEREAS by the Killorglin Railway Act, 1871, (herein called the "Act of 1871,") the Killorglin Railway Company (herein called "the Company") were incorporated and empowered to make the railway described in section 26 of that Act, being a railway in the county of Kerry, of about twelve miles in length, from the Farranfore Station of the Great Southern and Western Railway to Killorglin: 34 & 35 Vict.
c. clxxviii.

And whereas the Company were by the Act of 1871 (section 6) authorised to raise forty thousand pounds by means of shares, being the amount of the estimate of the expense of the said railway, and also (section 9) to borrow money on mortgage for the purposes of the said railway; and the several baronies in the county of Kerry mentioned in the said Act (section 12) were required to guarantee interest on the moneys borrowed in manner therein mentioned:

And whereas the Company have been unable to raise any part of the said share capital, and no money has been borrowed, and no part of the said railway has been made, and the powers of the Act of 1871 for making the same have expired:

And whereas it is expedient that the Company be authorised to raise additional share capital to the amount of twenty thousand pounds, making the share capital of the Company amount to the sum of sixty thousand pounds:

And whereas the construction of the railway will contribute to the advantage and improvement of the several baronies and portion of barony in the county of Kerry herein-after mentioned, and will tend to lessen the amount of poors rates therein, and also to relieve

A.D. 1880.

the existing distress amongst the labouring classes in the district by affording remunerative employment, and it is therefore expedient that the powers of the Act of 1871, as amended by this Act, should be revived and extended, and that a baronial guarantee on the said share capital of sixty thousand pounds should be authorised by the several baronies and portion of barony of the county of Kerry herein-after mentioned to the extent and in the manner provided by this Act for the purpose of the railway :

And whereas it is expedient, for the purpose of affording better railway accommodation for the traffic of the district, that the Company be authorised to make two diversions of the said railway authorised by the Act of 1871 :

And whereas resolutions were unanimously adopted at the spring assizes, 1880, of the grand jury of the county Kerry, held in and for the said county at Tralee, and at meetings of the presentment sessions for the said several baronies, and by the poor law guardians of the unions of Tralee, Killarney, Cahirciveen, and Dingle, in which the said several baronies and portion of barony are comprised, approving of the Bill for this Act, and recommending a guarantee of five pounds per centum per annum on the said share capital of sixty thousand pounds in accordance with the terms of the Bill for this Act :

And whereas plans and sections of the said railway authorised by the Act of 1871 were deposited and still remain with the clerk of the peace of the county of Kerry, and amended books of reference to those plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes of that railway, so far as not authorised to be diverted by this Act, have been deposited with the said clerk :

And whereas plans and sections of the diversion railways authorised by this Act, and books of reference to those plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes of such diversion railways, have also been deposited with the clerk of the peace for the county of Kerry :

And whereas the several 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 :

1. This Act may be cited for all purposes as the Killorglin Railway Act, 1880.

Short title.

2. In this Act, unless the context otherwise requires, the expression "the railway" means the railway and works authorised by the Act of 1871, as the said railway is authorised to be diverted and made and completed by this Act, and includes the diverted railways hereby authorised.

Interpretation.

3. Subject to the provisions of this Act, the Act of 1871, as amended by this Act, and this Act shall be read and construed together as one Act.

Construction of Act.

4. The Railways Clauses Consolidation Act, 1845, Part I. (relating to construction of a railway), Part II. (relating to extension of time), and Part III. (relating to working agreements) of the Railways Clauses Act, 1863 ;

Incorporation of general Acts. 8 & 9 Vict. c. 20. 26 & 27 Vict. c. 92.

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters ; (that is to say,)

8 & 9 Vict. c. 16.

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 the payment of calls ;

The forfeiture of shares for the nonpayment of calls ;

The remedies of creditors of the Company against the shareholders ;

The consolidation of the shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ;

And 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), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, the Companies Clauses Act, 1869, the Lands Clauses Consolidation Act, 1845, as amended by the Railways Act (Ireland), 1851, and the several Acts continuing and amending the same, and the Lands Clauses Consolidation Acts Amendment Act, 1860, are (except where expressly varied by this Act) incorporated with and form part of this Act.

26 & 27 Vict. c. 113. 32 & 33 Vict. c. 48. 8 & 9 Vict. c. 18. 14 & 15 Vict. c. 70. 23 & 24 Vict. c. 106.

5. 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 the expression "clerks of the" "unions within which such parishes are included in Ireland," or

Interpretation of expressions in general Act.

A.D. 1880. the words "clerks of the union" (as the case may be), had been used and inserted in such sections in lieu of the expression "the postmasters of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmasters" (as the case may be).

Powers of
34 & 35 Vict.
c. clxxviii.
revived.

6. All the rights, powers, and authorities conferred upon the Company by the Act of 1871 for the compulsory purchase of lands and the construction and completion of the railway thereby authorised, except in so far as such railway is authorised to be diverted and abandoned by this Act, shall be and the same are hereby revived and shall continue in force in manner provided by this Act.

Provision
for calling
up share
capital.

7. Section 8 of the Act of 1871, as to calls, shall be and the same is hereby repealed. The Company may call up the share capital of the Company authorised by the Act of 1871 and by this Act in such manner as they shall think proper.

Power to
raise addi-
tional capital.

8. The Company, for the purposes of the Act of 1871, as amended by this Act, and of this Act, may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, increase their authorised share capital of forty thousand pounds by raising any additional share capital, not exceeding in the whole twenty thousand pounds, by the issue of new shares, making the total share capital of the Company sixty thousand pounds, but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Guarantees
to attach
to share
capital.

9. When the Company issue the said share capital of sixty thousand pounds, or any part thereof, they may declare that the guarantee by this Act provided with reference to the application of the net profits of the railway and the guarantees by the baronies and portion of barony in the county of Kerry, as by this Act authorised, shall attach to such share capital on the amount for the time being paid up on each share thereof, and the holders of such shares shall be entitled to all the benefits of such guarantees accordingly, to the exclusion of all other persons whomsoever, whether creditors of the Company or otherwise: Provided always, nothing in this section contained shall alter, prejudice, or in any way affect the conditions in which the baronial guarantees are authorised to be granted under this Act, and such shares shall be called the "Killorglin Railway Guaranteed Shares," and the terms and conditions on which such shares are issued shall be shortly stated in the certificates relating thereto.

10. Sections 9 and 10 of the Act of 1871, relating to money to be borrowed and to the appointment of a receiver, and sections 11 to 25 inclusive of the Act of 1871, relating to the guarantee by the baronies therein mentioned on the capital authorised by the Act of 1871 to be borrowed, shall be and the same are hereby repealed.

A.D. 1880.
—
Certain sections of 34 & 35 Vict. c. clxxviii. repealed.

11. The Company may from time to time borrow on mortgage any sum not exceeding in the whole thirty thousand pounds, but no part thereof shall be borrowed until the whole of the capital of sixty thousand pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the satisfaction of the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act, 1845 (before he so certifies), that shares for the whole of such capital have been issued and accepted, and that one half of the amount thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares were issued bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Power to borrow on mortgage.

12. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Debenture stock.

13. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than three thousand pounds in the whole.

Appoint-ment of a receiver.

14. All moneys raised under the authority of the Act of 1871 or of this Act, whether by shares or mortgage or debenture stock, shall be applied for the purposes of the Act of 1871 and of this Act only.

Application of moneys.

A.D. 1880.

Power to
construct
railway
according to
deposited
plans, &c.

15. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the plans and sections deposited with reference to the Act of 1871, the railway authorised to be made by the said Act, except in so far as the said railway is hereby authorised to be diverted and abandoned, and they may also make and maintain, in the line and according to the levels shown on the plans and sections deposited with reference to the diversion railways, the diversion railways herein-after described, with all proper stations, sidings, approaches, works, and conveniences connected with all such railways, and may enter upon, take, and use such of the lands delineated on the said plans and described in the said deposited books of reference respectively as may be required for those purposes.

The diversion railways herein-before referred to and authorised by this Act are—

1. A diversion railway (No. 1), 3 miles 5½ chains in length or thereabouts, commencing in a field numbered 16, in the townland of Rusheen, parish of Kilnanare, on the said plans deposited with reference to the Act of 1871, by a junction with the said railway authorised by the said Act at a point in the centre line thereof marked five miles one furlong or thereabouts from its commencement at Farranfore, and terminating in a field numbered 6 on the said last-mentioned plans, in the townland of Abbeylands, parish of Kilcolman, at a point in the centre line of the said authorised railway marked eight miles or thereabouts from its commencement at Farranfore;
2. A diversion railway (No. 2), 1 mile 3 furlongs and 53 yards in length or thereabouts, commencing in a field numbered 4 on the said last-mentioned plans, in the townland of Stealroe, parish of Killorglin, at a point in the centre line of the said authorised railway marked ten miles and six furlongs or thereabouts from its commencement at Farranfore, and terminating in the townland of Laharan and parish of Killorglin at a point in the northern fence of the main road from Killorglin to Cahirciveen adjoining a field in the occupation of T Linehan, which said point is distant three hundred and seventy-three yards or thereabouts from the junction of Upper Bridge Street at Killorglin with the Cahirciveen main road, measured along the northern fence of the said Cahirciveen road in a westerly direction;

And, subject to the provisions of this Act, the diversion railways shall be and be deemed for the purposes of tolls, rates, and charges, and for all purposes whatsoever, part of the railway of the Com-

pany, as if the same had been made under the powers of the Act of A.D. 1880. 1871.

16. Subject to the provisions of the Railway Clauses Consolidation Act, 1845, and in Part 1 (relating to the construction of a railway) of the Railway Clauses Act, 1863, contained in reference to the crossing of roads on the level, the Company may, in construction of the railway, carry the same with a single line of railway only, whilst the railway shall consist of a single line, and afterwards with a double line of railway only, across and on the level of the road next herein-after mentioned; (that is to say,)

Power to cross certain road on the level.

No. on deposited Plan.	Townland.	Parish.	Description of Road.
DIVERSION RAILWAY No. 1.			
16	Rathpoge East	Kilcolman	Public.

17. The Company may make the arch of the bridge for carrying the railway over the road next herein-after mentioned of any height and span not less than the height and span herein-after mentioned; (that is to say,)

Height and span of certain bridge.

No. on Plan.	Townland.	Parish.	Description of Road.	Height.	Span.
DIVERSION RAILWAY No. 2.					
5	Castleconway	Killorglin	Public	10 feet	12 feet.

18. In altering for the purpose of this Act the road next herein-after mentioned the Company may make the rate of any inclination not steeper than the inclination herein-after mentioned in connexion therewith; (that is to say,)

Inclination of road.

No. on deposited Plan.	Townland.	Parish.	Description of Road.	Inclination.
DIVERSION RAILWAY No. 2.				
5	Castle Conway	Killorglin	Public	1 in 12.

A.D. 1880.

Company to abandon certain portions of original line.

19. The Company shall abandon the construction of so much of the said railway authorised by the Act of 1871 as lies between the commencement and termination of the intended diversion railway No. 1 hereby authorised, and so much of the railway authorised by the Act of 1871 as lies between the commencement of the diversion railway No. 2 and the termination of the railway authorised by the Act of 1871.

Compensation for damage to land by entry, &c. for purposes of railways abandoned.

20. The abandonment by the Company, under the authority of this Act, of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which may have been temporarily occupied by the Company to receive compensation for such temporary occupation, or for any loss, damage, or injury which may have been sustained by such owner or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act, 1845, or the said Act of 1871.

Compensation to be made in respect of portions of railway abandoned.

21. Where before the passing of this Act any contract may have been entered into or notice given by the Company for the purchasing of any land for the purposes of or in relation to any portions of the railway authorised to be abandoned by this Act, the Company shall be released from all liability to purchase or to complete the purchase of any such lands, but, notwithstanding, full compensation shall be made by the Company to the owners or occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Consolidation Act, 1845, as amended by any subsequent Act, for determining the amount and application of compensation paid for lands taken under the provisions thereof.

Period for compulsory purchase of lands.

22. The powers of the Company for the compulsory purchase of lands for the purposes of the railway may be exercised within, but shall not be exercised after, the period of eighteen months from the passing of this Act.

Period for completion of railway.

23. The railway shall be completed on or before the first day of November 1882, and if the railway be not completed within the said period, then on the expiration thereof the powers by the Act

of 1871 and by this Act granted to the Company for making and completing the railway shall cease to be exercised, except as to so much thereof as shall then be completed. A.D. 1880.

24. From and after the passing of this Act, and for the period hereby granted for the completion of the railway, and for the period of thirty-five years after the opening thereof, the sum or amount required to pay a dividend of five pounds per centum per annum on the said sum of sixty thousand pounds of share capital authorised to be raised by the Act of 1871 and by this Act, or so much thereof as shall be from time to time paid up, shall be payable half yearly by the several baronies of Magonihy, Iveragh, Corkaguiney, and Trughenackmy, and that portion of Dunkerron North which is situated in the poor law unions of Killarney and Cahirciveen, all in the county of Kerry, rateably and in the proportions to be ascertained as herein-after provided: Provided that if the railway shall not be completed and opened for traffic within the period hereby granted for its completion, the said dividends shall cease to be payable until after the opening of the railway for public traffic.

Baronies to contribute during the construction of railway.

25. If and whenever during the period of thirty-five years after the opening of the railway for public traffic the net profits of the railway (such net profits to be ascertained as by this Act directed), after deducting from the gross receipts the working expenses of the railway, and after deducting the interest or dividend on any mortgage or debenture stock payable by the Company, shall not amount to a sum equal to a dividend at the rate of five pounds per centum per annum upon the said sum of sixty thousand pounds, or upon so much thereof as shall have been from time to time paid up, the sum or amount required to make up such dividend as aforesaid shall become payable half yearly by the said several baronies of Magonihy, Iveragh, Corkaguiney, and Trughenackmy, and that portion of Dunkerron North which is situated in the poor law unions of Killarney and Cahirciveen before mentioned, and in the manner provided by this Act: Provided always, that the said net profits, after deducting from the gross receipts the working expenses of the railway, and after deducting the interest or dividend on any mortgage or debenture stock payable by the Company, shall during the said period be applied to the payment of the said dividend of five pounds per centum per annum on the said sum of sixty thousand pounds of share capital, or upon so much thereof as shall have been from time to time paid up, in priority to any other debt, demand, or claim, or to any other purpose whatsoever.

Application of profits after opening of railway and baronial guarantee on share capital.

26. For the purpose of ascertaining the proportions in which such baronies and portion of barony shall pay the said sum so to be paid half yearly as aforesaid, and during such time as the same

Board of Trade to appoint arbitrators to

A.D. 1880: shall be payable, it shall be lawful for the Board of Trade (at or
determine upon the request of the Company) from time to time, by warrant
proportion to under the hand of their Secretary for the time being, to appoint as
be paid by arbitrators any two of the county surveyors for the time being of
each barony, the county of Kerry, and one other person to be selected by the
&c. Board of Trade, and such persons shall by their award in writing
assess and determine the relative proportions in which such sum
shall be paid and made up by the said several baronies and portion
of barony, such arbitrators taking into consideration the benefit or
supposed benefit (immediate or prospective) which such baronies
and portion of barony may in their opinion be likely to derive from
the formation and opening of the railway, and the award of such
arbitrators under their hands or under the hands of any two of them
(in case all the said arbitrators shall be unable to agree) shall, when
allowed by the Board of Trade, by writing under the hand of their
Secretary to be indorsed upon the said award, be in all respects final
and binding on the said baronies and portion of barony; and from
and immediately after the allowance of such award by the Board of
Trade the said several baronies and portion of barony, and all lands,
tenements, and hereditaments therein respectively, shall be and
are hereby charged and made chargeable with the payment of such
sum in the several proportions specified and set forth in such award,
and after such award shall have been allowed in manner aforesaid
the same and such duplicate thereof as may be necessary shall be
delivered to the Company upon their request, and upon payment by
them to the said arbitrators of such remuneration, if any, for his or
their trouble in making such award as the Board of Trade shall
determine.

Board of
Trade may
appoint
auditors.

27. The Board of Trade may and they are hereby authorised
and required from time to time to appoint a fit and proper person
or fit and proper persons, not exceeding three in number, as auditor
or auditors to audit the accounts of the Company, and to make
certificates in pursuance of the directions contained in this Act,
and it shall and may be lawful to and for the Board of Trade from
time to time to revoke the appointment of such auditor or auditors
or any of them, and such auditor or auditors from time to time to
remove, and his or their powers and authorities to revoke, and any
other person or persons in the place of such person or persons so
displaced, or of any person dying, to appoint with the same powers
or authorities, and the Company shall pay to each of the auditors so
appointed such a sum for his trouble in making such audit, and in
relation thereto, as the Board of Trade shall from time to time fix
and determine, and such payment shall be deemed to be part of the
working expenses of the railway.

28. For the purpose of ascertaining the amount out of the said sixty thousand pounds expended by the Company on the railway until the opening thereof for public traffic, and the half-yearly sum to be paid by the said several baronies and portion of barony on the sum so expended, and also for ascertaining the net profits of the railway, if any, applicable to the payment of dividend as aforesaid, the Company shall from time to time, on or before the first day of June, or as soon thereafter as may be, and on or before the first day of December, or as soon thereafter as may be, in every year, make out and tender to the auditor or auditors a full, true, and distinct account of all the expenditure and receipts of every nature and kind for the then preceding half year ending the thirtieth day of April and the thirty-first day of October in each year respectively arising in any manner from the railway, which account the said auditor or auditors shall and he or they are hereby authorised to examine with the documents and vouchers evidencing the same; and all books, papers, and accounts in the custody and control of the Company relating to the business of the Company, and all accounts, documents, vouchers, books, and papers kept by the Company, shall, upon the request of the said auditor or auditors, be from time to time produced to the said auditor or auditors for examination, and the Company shall, so long as the said barony contributions may continue, keep proper and correct books of account to show the gross receipts and profits on the railway and the expenditure thereof, to which books of account the said auditor or auditors shall have at all reasonable times access, and from which they may at all times take extracts, and such auditor or auditors shall adjust and balance such accounts, and as to all other matters relating to the said accounts, or as to what part of the said sum of sixty thousand pounds has been expended up to the time of the opening of the said railway, and after the opening thereof as to what part shall be considered as profit, their decision shall in all respects be final and conclusive on all parties.

A.D. 1880.
—
Account of receipts and expenditure to be rendered.

29. The said auditor or auditors shall from time to time until the opening of the railway for public traffic ascertain, assess, and determine the amount necessary to be paid in each half year by the said several baronies and portion of barony, and after the opening of the railway shall from time to time ascertain and determine the amount of net receipts respectively in each half year applicable to the payment of the said dividend on the said sum of sixty thousand pounds as provided by this Act, and shall also assess and determine the amount, if any, necessary to be paid and made up by the said several baronies and portion of barony liable to pay the same, and shall set forth the several matters so ascertained and determined by

Auditors to ascertain amount to be paid by the baronies.

A.D. 1880. — him or them in a certificate in writing under his or their hands, or if their number should consist of three under the hands of any two of them, and every such certificate shall be in all respects final and binding on the said several baronies and portion of barony.

Auditors to deliver certificate to the Company.

30. The said auditor or auditors shall, on the request of the Company, and within eight clear days before the assembling of the grand jury of the county of Kerry for fiscal business, deliver the said certificate and a duplicate thereof to the Company.

Sum certified to be presented by grand jury and paid by treasurer.

31. The Company shall from time to time deliver such certificate or such duplicate thereof as aforesaid to the secretary of the grand jury for the county of Kerry, and such secretary shall lay such certificate or duplicate thereof before the grand jury of the said county at the assizes next after he shall have received the same, and the said grand jury shall from time to time at such assizes, and without any reference to presentment sessions, present the sum mentioned in such certificate relating to the said several baronies and portion of barony to be raised and levied off such baronies and portion of barony, and the same shall be raised and levied accordingly, together with and in like manner and subject to like provisions as other moneys presented by such grand jury at the same assizes are raised and levied, and the treasurer of such county, out of the first moneys collected and remaining in his hands after repayment of Government advances, gaol expenses, and salaries of public officers payable by him, shall pay the sum so presented by the grand jury unto the Company, or in such other manner as the Company shall direct, and if the said grand jury shall fail to present the sum or any part thereof contained in any such certificate relating to the said several baronies and portion of barony the treasurer of the said county shall and he is hereby required to insert such sum or such omitted part thereof in his warrant for raising the moneys presented at the same assizes, as if such sum had been duly presented by such grand jury, to be raised in manner herein-before mentioned off the said several baronies and portion of barony chargeable therewith as aforesaid, and the same shall be raised and levied off the said several baronies and portion of barony accordingly as if the same had been so presented, and the said treasurer shall pay over the amount when by him received as herein-after provided as if such money had been presented by such grand jury.

Condition of bonds by collectors of grand jury cess.

32. Every bond of a collector of grand jury cess within the said county of Kerry to be hereafter given or executed by way of security for duly collecting and paying public money shall contain a condition for his duly collecting and paying to the treasurer of such county, on or before each next succeeding assizes, all such money as he shall from time to time be authorised to levy under this Act,

and such bond shall be subject to all provisions now applicable to bonds given or executed by collectors of grand jury cess. A.D. 1880.

33. The grand jury of the said county shall also present such sum of money, to be levied off the said several baronies and portion of barony, to be paid to any such collector as aforesaid for his remuneration in the collection of such assessments as is payable in the case of the collection of grand jury cess. Remuneration to collector to be presented by grand jury.

34. If at any time it shall appear to the said auditor or auditors that the net profits of the Company in any year ending on the thirty-first day of October within ten years from any period at which any such payment by the said several baronies and portion of barony as aforesaid shall have been made shall have amounted to such a sum as to leave a surplus, after deducting a sum sufficient to pay the interest for that year upon any moneys under this Act borrowed or raised by the Company on mortgage or debenture stock, and also after deducting a sum sufficient for paying to the shareholders a dividend at the rate of five pounds per centum per annum on the then paid-up capital of the Company, the said auditor or auditors shall and he is or they are hereby required forthwith to certify such fact by writing under his or their hand or hands, stating the amount of any such surplus to the treasurer for the time being of the said county, and thereupon the said treasurer shall be entitled to receive from the Company the said surplus to an extent not exceeding the aggregate amount of payments made by the said several baronies and portion of barony since the passing of this Act, and the said treasurer shall apply the sum so received by him in aid of the county cess upon the said several baronies and portion of barony which shall have made such payment, in such proportion as the aggregate amount which shall have been paid during the aforesaid period by each barony and portion of barony shall bear to the aggregate amount which shall have been paid during the same period by such baronies and portion of barony aforesaid. In a certain event the baronies to be recompensed out of the profits of the railway.

35. The auditor or auditors shall within one month after having certified as aforesaid to the treasurer of the county of Kerry deliver to the said treasurer a certificate in writing under his or their hand or hands stating what proportion of the said surplus the treasurer to whom the certificate is to be given is (by virtue of the last preceding enactment) entitled to receive, and the said treasurer shall be entitled on demand to receive from the Company the amount mentioned in such certificate, and in default of payment on demand to recover the same with full costs of suit by action of debt or on the case in any court of competent jurisdiction, and in any such action the treasurer for the time being of the said county shall be Auditors to deliver a certificate to the treasurer of the county Kerry stating what proportion of the surplus such treasurer entitled to receive.

A.D. 1880.

the nominal plaintiff, and as such entitled to sue on behalf of the county for which he may be the treasurer, and no such proceeding shall abate or be discontinued by reason of the death or resignation of such treasurer, but shall continue and proceed in the name of any treasurer from time to time appointed in the stead of any such treasurer who may die, be removed from or resign his office, upon entering a suggestion for that purpose by leave of the court in which any such proceeding may be pending.

Period at which liabilities of the baronies are to cease.

36. After the expiration of thirty-five years from the opening of the railway for public traffic no further payment to the Company shall be made by the said several baronies and portion of barony, and from and after the expiration of that period all the powers of this Act which relate to the payments to be made by and the rates to be levied upon the said several baronies and portion of barony shall for ever cease and determine.

Tenants to deduct half cess from the rent.

37. When the person occupying any lands, hereditaments, or premises shall be liable to pay a rent in respect of the same, he may deduct from such rent for each pound of the rent he is liable to pay one half of the sum which he shall have paid as grand jury cess under the provisions of this Act in respect of each pound of the net annual value of such premises, as valued under the Acts relating to the valuation of rateable property in Ireland, and so in proportion for any less sum than a pound: Provided always, that it shall not be lawful for any such person to deduct from the rent payable by him for such premises a larger sum than one half of the amount of the cess that has been paid by him in respect of the same; and the receipt of the collector duly appointed to collect such rate or cess shall be a good and valid receipt, to be taken into account in all payments on account of rent between him and the person to whom such rent is payable: Provided always, that no deductions be made from tithe rentcharge, or other composition in lieu of tithes, for or on account of such rate or cess.

Sub-lessors to make proportionate reduction from superior landlord's rent.

38. When any person to whom rent shall be payable, in respect of any hereditaments shall also pay a rent in respect of the same, he shall be entitled to deduct from the rent so paid by him a sum bearing such a proportion to the amount of rate or cess deducted under the provisions of this Act from the rent payable to him as the rent paid by him bears to the rent received by him, not exceeding the half of the said rate or cess payable by him: Provided always, that no lessee or other person paying any rate or cess under this Act in respect of any hereditaments held by him for lives renewable for ever, or for the residue of any term of years which, when originally created, shall not have been less than nine hundred

years, shall deduct any portion of such rate or cess from the rent payable by him in respect of such hereditaments. A.D. 1880.

39. In all cases a receipt for the rate or cess to be levied under the authority of this Act in respect of any hereditaments shall be accepted by every person entitled to receive rent in respect of the same in lieu of such a portion of rent as the person tendering such receipt is hereby entitled to deduct from such rent by reason of his payment of the rate or cess for which such receipt shall be given: Provided always, that no deduction on account of any payment of rate or cess under this Act shall be held to be a discharge of any portion of any gale or quarterly or other payment of rent due from the person entitled to make such deduction, so as to prejudice the right of any landlord to recover the possession of any hereditaments by ejectment for nonpayment of rent thereof in any case where the remaining portion of such gale shall be unpaid, but it shall be lawful for such landlord to proceed for the recovery of such hereditaments by ejectment as effectually as if the entire gale or quarterly or other payment of rent out of which such deduction is hereby allowed had remained wholly due or unpaid: Provided also, that no deduction shall be made from any rentcharge granted by way of jointure, or any other rentcharge or annuity granted, limited, or devised for a life or lives in being only, or for years determinable on a life or lives in being. Receipt for rate to be taken in discharge.

40. The lands, property, stations, houses, goods, stores, railway, and premises in the county of Kerry belonging to the Great Southern and Western Railway Company shall not be liable to be rated or assessed for the purpose of the baronial guarantee by this Act authorised to be levied. Exemption for Great Southern and Western Railway Company.

41. Sections 36 and 37 of the Act of 1871 (as to money deposited with reference to that Act) shall be and the same are hereby repealed, without prejudice to anything hitherto done under those sections or either of them. Repeal of sections 36 and 37 of 34 & 35 Vict. c. clxxviii.

42. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act passed in the session of Parliament held in the ninth year of the reign of Her present Majesty, chapter twenty, a sum of three thousand pounds, being five per centum upon the amount of the estimate in respect of the railway, has been deposited with the Court, (that is to say,) the Chancery Division of the High Court of Justice in Ireland, in respect of the application to Parliament for this Act (which sum is in this Act referred to as "the deposit fund"): Be it enacted, that, notwithstanding anything contained in the said Act, the deposit fund shall not be paid or transferred to or on the application of the person or persons; or Deposit money not to be repaid except so far as railway is opened.

A.D. 1880. the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them (which persons, survivor, or survivors are or is in this Act referred to as "the depositors"), unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the railway for the public conveyance of passengers: Provided that if within the said period the Company open any portion of the railway for the public conveyance of passengers, then, on production of the certificate of the Board of Trade specifying the length of the portion of the 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 the railway so opened bears to the entire length of the railway, the Court shall, on the application of the depositors, order the said portion of the deposit fund so specified in such certificate to be paid or transferred to them or as they shall direct, and the certificate of the Board of Trade shall, if signed by the Secretary or by an Assistant Secretary of that Board, 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 the first above-recited Act to the contrary notwithstanding.

Application
of deposit.

43. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railway open it 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 to the depositors as aforesaid, shall be applicable, and after due notice in the Dublin Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by the Act of 1871 or this Act, in such manner and in such proportions as to the Court may seem fit; and if no such compensation shall be payable, or if a portion of the deposit fund shall have 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 shall 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 to 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 shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

A.D. 1880.

44. Section 50 of the Act of 1871 (power to enter into traffic arrangements with railway company) is hereby repealed.

Repeal of section 50 of 34 & 35 Vict. c. clxxviii.

45. The Company on the one hand and the Great Southern and Western Railway Company on the other hand may, subject to the provisions of Part III. of the Railways Clauses Act, 1863, as amended or varied by the Regulations of Railways Act, 1873, from time to time enter into agreements with respect to the following purposes or any of them; (that is to say,)

Power to enter into traffic arrangements. 36 & 37 Vict. c. 73.

The management, use, working, and maintenance of the railway or of any part or parts thereof:

The supply of engines, rolling stock, and plant necessary for the purposes of any agreement for the use and working of the railway by the Great Southern and Western Railway Company, and of officers and servants for the conduct of the traffic on the railway:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting companies, and the fixing and division between the said companies of the receipts arising from such traffic.

46. Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give), neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of the Crown in the fore-shore.

A.D. 1880.
Interest not
to be paid on
calls paid up.

47. The Company shall not, out of any money by this Act or the Act of 1871 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.

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

48. The Company shall not, out of any money by this Act or the Act of 1871 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.

49. Nothing herein contained shall be deemed or construed to exempt the railway from the provisions of any general Act relating to railways, or the better and more impartial auditing 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 by the Act of 1871.

Expenses of
Act.

50. 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.