



CHAPTER cxiii.

An Act for enabling the Great Southern and Western Railway Company to execute certain Works and acquire certain Lands to purchase the Undertaking of the Kanturk and Newmarket Railway Company to raise further Capital by Debenture Stock and for other purposes. A.D. 1892.

WHEREAS it is expedient that the Great Southern and Western Railway Company (in this Act called "the Company") should be empowered to widen or reconstruct the bridge construct the new road and discontinue the level crossing in this Act mentioned and to acquire for the purposes of such works and for other purposes connected with their undertaking the lands in this Act also mentioned :

And whereas by the Kanturk and Newmarket Railway Act 1887 (in this Act called "the Act of 1887") the Kanturk and Newmarket Railway Company (in this Act called "the Kanturk Company") were incorporated and were authorised to make a railway in the county of Cork from Newmarket to form a junction with the Killarney branch of the Company :

And whereas by the Act of 1887 the Kanturk Company were authorised to raise fifty thousand pounds by shares and twenty thousand pounds by borrowing and it was by the said Act provided that a baronial guarantee by the barony or parts of the barony of Duhallow should be attached to forty thousand pounds portion of the said sum of fifty thousand pounds which the Kanturk Company were authorised to raise by shares :

And whereas the Kanturk Company have created and issued capital as follows (that is to say) :—

[Price 9d.]

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	£
Baronial guaranteed shares ten pounds each	- 40,000
Ordinary shares ten pounds each	- 4,000
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Share capital	- 44,000
By loans or debentures	- 20,000
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Total	- 64,000
	<hr/>

And whereas the railway of the Kanturk Company is completed and opened for public traffic and is now worked by the Company and a sum of one thousand four hundred and six pounds with interest thereon at the rate of five pounds per centum per annum from the first day of November one thousand eight hundred and ninety-one is due and owing from the Kanturk Company to the Company as shown by the agreement between the Company and the Kanturk Company contained in the schedule to and confirmed by this Act.

And whereas it is expedient that the Company be empowered to acquire the undertaking of the Kanturk Company on the terms and conditions set forth in this Act and that provision should be made for the winding up and dissolution of the Kanturk Company :

And whereas it is expedient to amend the Act of 1887 as regards the dates for rendering accounts for the purposes of the baronial guarantee under that Act :

And whereas the Company have by their various Acts been authorised to raise the sum of six million three hundred and nine thousand nine hundred and forty pounds by shares and the sum of two million two hundred and three thousand nine hundred and sixty-five pounds by borrowing :

And whereas it is expedient that the Company be authorised to raise the capital necessary for the purchase of the undertaking of the Kanturk Company and for the other purposes of this Act by a further issue of debenture stock :

And whereas plans and sections of the widening and reconstruction of the bridge and of the new road by this Act authorised and plans of the lands which may be acquired under the powers of this Act and also books of reference 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 this Act were duly deposited with the clerks of the peace for the several counties within which those works will be constructed and those

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lands are situate which plans sections and books of reference are in this Act respectively referred to as the deposited plans sections and books of reference : A.D. 1892.

And whereas the 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 (that is to say) :—

1. This Act may be cited for all purposes as the Great Southern and Western Railway Act 1892. Short title.

2. The following parts of Acts and Acts are (except where expressly varied by this Act) incorporated with and form part of this Act :— Incorporation of general Acts.

Part III. relating to debenture stock of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 and Part V. relating to amalgamation of the Railways Clauses Act 1863 (except sections 38 and 49) and the Lands Clauses Acts.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. Interpretation.

4. 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 the words "clerks of the unions" (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). As to deposit of plans with clerks of unions.

5. Subject to the provisions of this Act the Company may make in the lines and according to the levels shown on the deposited plans and sections the widening and reconstruction of the bridge and the new road hereinafter described and may exercise the powers hereinafter described and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes (that is to say) :— Power to make new roads and works.

They may widen and reconstruct the bridge in the townland of Knocklong East and parish of Knocklong in the county of Limerick which carries the public road leading from Knocklong cross roads to Garryspellane ;

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A.D. 1892. They may construct a new road in the townland parish and county aforesaid commencing at a point on and forming a junction with the existing public road leading from Knocklong cross roads to Garryspellane one hundred and thirty-three yards or thereabouts measured in a south-easterly direction along such road from the centre of the bridge carrying the said road over the Company's railway and terminating at a point on and forming a junction with the public road leading from Knocklong cross roads to Knocklong village one hundred and sixty-three yards or thereabouts measured in a southerly direction along such road from the centre of the level crossing by which the last-mentioned road crosses the railway of the Company and when such new road has been completed to the satisfaction of two justices and opened to the public they may stop up abolish and discontinue the said level crossing.

Power to
acquire lands
for general
purposes of
undertaking.

6. Subject to the provisions of this Act and in addition to the other lands which they are by this Act authorised to acquire the Company may from time to time enter upon take use and appropriate to purposes connected with their undertaking all or any of the lands following delineated on the deposited plans and described in the deposited books of reference relating thereto respectively (that is to say):—

Certain lands in the townland of Commons in the parish of Thurles and county of Tipperary lying on the south-east side of the Company's railway and adjoining their Thurles station;

Certain lands in the townland of Knocklong East in the parish of Knocklong and county of Limerick lying to the north and south of and adjoining the Company's railway and adjoining and near the Company's station premises at Knocklong;

Certain lands in the townlands of Townparks and Broomfield East in the parish of Middleton and county of Cork lying to the north of and adjoining the Cork and Youghal branch of the Company's railway said lands of Townparks being in the township of Middleton;

Certain lands in the townland of Cools in the parish of Aghadoe and county of Kerry lying to the south of and adjoining the Company's Killarney branch railway and to the west of their Headfort station.

Period for
compulsory
purchase of
lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

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8. Subject to the provisions of section 46 of the Railways Clauses Consolidation Act 1845 the new road to be made under the authority of this Act shall when made and completed from time to time be repaired and maintained by and at the expense of the same parties in the same manner and to the same extent as other roads within the townland and parish in which such new road will be situate are from time to time liable to be repaired or maintained.

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As to repair
of new road.

9.—(1.) The Company shall not under the powers of this Act purchase or acquire in any urban sanitary district as defined by the Public Health (Ireland) Act 1878 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers :

Restriction
on taking
houses of
labouring
class.

(2.) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

10. From and after the first day of July one thousand eight hundred and ninety-two (which day is in this Act referred to as "the vesting period") the undertaking of the Kanturk Company including therein all railways lands buildings property rights and privileges other than money or securities for money held by or vested in or enjoyed by the Kanturk Company shall be and the same is by virtue of this Act transferred to and vested in the Company subject to all the conditions obligations and liabilities imposed on or of the Kanturk Company with respect to the maintenance repair management regulation working and user of the undertaking which shall thenceforth be observed performed and discharged by the Company but freed and discharged from all other unpaid purchase money loans debentures charges liens or incumbrances whatsoever and from all debts claims and liabilities affecting the Kanturk Company or their undertaking and the undertaking of the Kanturk Company shall thenceforth subject to the provisions of this Act be and continue to be part of the undertaking of the Company.

Transfer to
Company of
undertaking
of the
Kanturk
Company.

11. Notwithstanding the transfer to and vesting in the Company of the undertaking of the Kanturk Company the sum or amount required to make up a dividend of five pounds per centum per

Baronial
guarantee
to remain in
force.

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A.D. 1892. — annum on the sum of forty thousand pounds baronial guaranteed shares portion of the capital of fifty thousand pounds which the Kanturk Company were by the Act of 1887. authorised to raise by shares shall as from the vesting period be payable to the Company half-yearly in manner and subject to the conditions provided or enacted by that Act as amended by this Act by the townlands in that portion of the union of Kanturk in the barony of Duhallow which is within the county of Cork and the provisions of the Act of 1887 as to ascertaining the net receipts of the railway and as to ascertaining the half-yearly sum so to be paid as aforesaid shall remain in full force and effect and the Company shall for such purposes keep all such accounts of expenditure and receipts and do all such acts and things as the Kanturk Company were by that Act required to keep and do Provided always that for the purpose of ascertaining the half-yearly sums to be paid in respect of such dividend on the said sum of forty thousand pounds the Company shall from and after the vesting period be entitled to deduct from the gross receipts arising from the working of the said railway in each half year the management and working expenses thereof and the moneys for the time being necessary to pay the half-yearly interest at the rate of five pounds per centum per annum on the sum of twenty thousand pounds the amount owing and raised at that rate of interest by the Kanturk Company on mortgage or debenture stock prior to the vesting period Provided also that if and whenever in any half year there shall remain any surplus of the net receipts from the railway (after deducting from the gross receipts the expenses of the management and working of the railway and the moneys for the time being payable in respect of the half-yearly interest at the rate of five pounds per centum per annum on the said sum of twenty thousand pounds and after deducting the sum or amount required to make up a dividend of five pounds per centum per annum upon the said sum of forty thousand pounds baronial guaranteed shares portion of the capital of fifty thousand pounds which the Kanturk Company were by the Act of 1887 authorised to raise by shares) such surplus shall be paid over by the Company to the treasurer of the said county of Cork until all moneys paid to the Kanturk Company and the Company from the said townlands in the said portion of the said union of Kanturk together with the costs and expenses of levying the same shall have been repaid to such treasurer and all moneys so paid to such treasurer shall be carried by him to the credit of the said townlands in proportion to the amounts paid by them respectively under the provisions of the Act of 1887 as amended by this Act and shall be

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applied by him in reduction of the county cess payable by the said townlands respectively. A.D. 1892.

12. Subject to the provisions of this Act the Kanturk Company shall be entitled to all receipts arising and payable to them under their agreement with the Company bearing date the fifth day of August one thousand eight hundred and ninety-one and also to all benefits of the baronial guarantee referred to in the last preceding section up to and inclusive of the thirtieth day of June one thousand eight hundred and ninety-two. Receipts &c. of Kanturk Company up to date of transfer.

13. From and after the vesting period section 16 of the Act of 1887 the marginal note of which is "accounts to be rendered" shall be read and construed as if the words "the first day of June" or as soon thereafter as may be in every year and on or before "the first day of December or as soon thereafter as may be" had been inserted therein instead of the words "the first day of February and the first day of July" and the words "the thirtieth day of April and the thirty-first day of October" instead of the words "the thirty-first day of December and the thirtieth day of June" Provided always that the account to be made out and rendered on the first day of December one thousand eight hundred and ninety-two shall only be for the period from the first day of July one thousand eight hundred and ninety-two to the thirty-first day of October one thousand eight hundred and ninety-two both days inclusive. Alteration of dates for rendering accounts for purposes of baronial guarantee.

14. From and after the transfer aforesaid the Act of 1887 with all rights powers and privileges thereunder shall (except the provisions thereof relating to the constitution and capital and the directors of the Kanturk Company and except the other provisions of the Act of 1887 so far as they are expressly determined or varied by this Act) remain in full force and continue to apply to the Kanturk undertaking in the hands of the Company. From and after transfer Act of 1887 to continue in force as to Kanturk undertaking.

15. The consideration for the transfer of the undertaking of the Kanturk Company to the Company shall be the payment on the vesting period or within one month from the expiration of that date to the Accountant-General of the Supreme Court in Ireland to an account to be entitled the "account of the Great Southern and Western Railway Act 1892" of the sum of sixty thousand pounds sterling less such sum as may be deducted as hereinafter mentioned and which is hereinafter referred to as "the purchase money" Provided always that the Company may deduct from the purchase money the sum of one thousand four hundred and six pounds due Consideration for transfer of Kanturk undertaking.

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A.D. 1892. by the Kanturk Company to the Company together with interest thereon at the rate of five pounds per centum per annum from the first day of November one thousand eight hundred and ninety-one and all other moneys which shall at the date of the vesting period be due by the Kanturk Company to the Company.

Books of
Kanturk
Company to
be evidence.

16. The several persons who at the vesting period appear in the books of the Kanturk Company to be holders of shares or stock in the capital of that Company or their respective executors administrators or assigns shall respectively be deemed to be holders of such shares or stock for the purpose of the distribution of the purchase money under the provisions of this Act.

Kanturk
Company
to be wound
up under the
Companies
Acts.

17. Subject to the provisions of this Act for the purpose of the Companies Act 1862 and notwithstanding any limitation or exception contained in section 199 of that Act the Kanturk Company shall be deemed to be an unregistered company whose principal place of business is situate in Ireland and forthwith after the vesting period the Kanturk Company shall apply to the Chancery Division of the High Court in Ireland by petition for an order for the winding up of such company and shall thereupon be wound up under the Companies Acts 1862 to 1890 and the provisions of those Acts are hereby made applicable in that behalf and the said purchase money shall be applied as assets of the Kanturk Company in such winding up and from and after the date of the dissolution order to be made by the court under those Acts the Kanturk Company shall be dissolved and cease to exist and all minute books books of accounts vouchers instruments and books relating to the Kanturk undertaking at the date of the dissolution order shall be delivered to the Company Provided that all deeds muniments of title maps awards agreements and other documents relating to the lands of the Kanturk Company and in their possession or power shall be delivered to the Company at the vesting period.

Stamp duty
on transfer
of under-
taking.

18. Within three months from the vesting period the Company shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printers and duly stamped with the ad valorem stamp duty of the same amount as would have been payable if the transfer and vesting of the undertaking had been by deed of conveyance and if the Company shall not within that period produce to the said Commissioners a copy of this Act duly stamped as aforesaid then the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the vesting period aforesaid to the day of payment shall be recoverable

from the Company with full costs of action and all costs and charges attending the same: A.D. 1892.

Provided that for the purposes of this section the consideration for the transfer and vesting of the undertaking of the Kanturk Company shall be deemed to be the sum of sixty thousand pounds.

19. Subject to the provisions of this Act the agreement between the Company of the one part and the Kanturk Company of the other part contained in the schedule to this Act is hereby confirmed and made binding on the parties thereto. Confirming agreement with Kanturk Company.

20. The Company may create and issue debenture stock not exceeding in the whole sixty thousand pounds subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages. Power to raise debenture stock for purposes of Act.

21. The Company may apply to the purposes of this Act to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise by shares or mortgage by virtue of any Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable. Power to apply corporate funds.

22. All moneys raised under this Act by debenture stock shall be applied only for the purposes of this Act being in all cases purposes to which capital is properly applicable. Application of moneys.

23. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise 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. Interest not to be paid on calls paid up.

24. The Company shall not out of any money by this Act 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 Deposits for future Bills not be paid out of capital.

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A.D. 1892. — authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as
to general
Railway
Acts.

25. Nothing in this Act contained shall exempt the Company or the railway of the Company or of the Kanturk Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the authorised maximum rates of fares and charges or of the rates for small parcels.

Costs of Act.

26. All the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or incidental thereto shall be paid by the Company.

The SCHEDULE referred to in the foregoing Act.

A.D. 1892.

AN AGREEMENT made the 12th day of November 1891 between THE KANTURK AND NEWMARKET RAILWAY COMPANY (hereinafter called the vendor) of the one part and THE GREAT SOUTHERN AND WESTERN RAILWAY COMPANY (hereinafter called the purchaser) of the other part.

1. The vendor will sell and the purchaser will purchase at the price of sixty thousand pounds the railway and undeftaking of the vendor including all property of every kind of or to which the vendor is seized possessed or entitled and the benefit of the baronial guarantee for payment of a dividend at the rate of five pounds per centum per annum on the sum of forty thousand pounds portion of the cost of constructing the Kanturk and Newmarket Railway subject to all obligations and liabilities of the vendor with respect to the maintenance repair management regulation working and user of the said railway but discharged from all other liabilities debts and engagements of the vendor whether directly affecting the purchased property or affecting the vendor in respect of the same.

2. The purchaser may deduct and retain out of the said sum of sixty thousand pounds the sum of one thousand four hundred and six pounds due and owing by the vendor to the purchaser up to the 31st day of October 1891 together with interest thereon at the rate of five pounds per cent per annum from the 1st day of November 1891 and all other moneys which at the time of the completion of the purchase shall be due by the vendor to the purchaser.

3. The vendor shall at its own expense before the 1st day of February 1892 produce at the office of Messieurs Barrington and Son the purchasers solicitors situate at Number 10 Ely Place in the city of Dublin the title-deeds and documents relating to the lands on which the said railway is constructed and shall thereby show in the vendor a good title to the said lands and upon the completion of the purchase all the said deeds and documents shall be delivered up to and become the property of the purchaser.

4. This agreement shall be carried out by an Act of Parliament by which the purchased property shall be transferred to and vested in the purchaser and such Act of Parliament shall contain all such provisions as may be necessary or expedient for giving full effect to this agreement and carrying out the same.

5. The purchaser shall forthwith at the purchasers expense proceed to obtain such Act of Parliament and the vendor and purchaser respectively shall use their utmost endeavours to promote and obtain the same.

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A.D 1892. 6. This agreement is conditional on the said Act of Parliament being obtained within twelve calendar months from the date hereof and shall be void unless the same shall be obtained within the time aforesaid.

In witness whereof the vendor and purchaser respectively have caused their respective common seals to be hereunto affixed the day and year first hereinbefore written.

Present when the common seal of the Kanturk and
Newmarket Railway Company affixed hereto.

ANDREW W. NOBLE

Secy.



Present when the common seal of the Great
Southern and Western Railway Company affixed
hereto.

FRAS. B. ORMSBY

Sec.

G.S.W.R.



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