CHAPTER clxxxi.

An Act for the transfer of the powers of the Killorglin Railway Company to the Great Southern and Western Railway Company; and for other purposes. A.D. 1881.

[11th August 1881.]

WHEREAS by the Killorglin Railway Act 1871 (in this Act called "the Act of 1871") the Killorglin Railway Company (in this Act called "the Killorglin Company") were incorporated and were authorised to make a railway from the Farranfore Station of the Great Southern and Western Railway Company (in this Act called "the Company") to Killorglin in the county of Kerry: 34 & 35 Vict. c. clxxviii.

And whereas the Killorglin Company were by the said Act authorised to raise forty thousand pounds by means of shares and the several baronies in the county of Kerry in the said Act mentioned were on the conditions therein recited required to guarantee interest on twenty thousand pounds the amount which the Killorglin Company were by the said Act authorised to raise by loan:

And whereas by the Killorglin Railway Act 1880 (in this Act called "the Act of 1880") the powers of the Killorglin Company were revived and amended and in lieu of a guarantee upon the loan capital of twenty thousand pounds a guarantee from the several baronies and portion of barony in the said Act mentioned was by the said Act attached to the sum of sixty thousand pounds which the Killorglin Company were by the said Act authorised to raise by shares And in lieu of the said loan capital of twenty thousand pounds the Killorglin Company were thereby authorised to borrow on mortgage any sum not exceeding thirty thousand pounds And by the said Act the Killorglin Company were authorised to divert their authorised railway in the manner in the said Act mentioned And it was further provided that the railway and works thereby authorised should be completed on or before the first day of November one thousand eight hundred and eighty-two: 43 & 44 Vict. c. clviii.

And whereas the said Acts are in this Act referred to as the Killorglin Acts:

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And whereas the Killorglin Company have been unable owing to the unsettled condition of the country to commence the construction of the said railway or to raise any portion of their authorised capital:

And whereas the construction of the said railway would employ much labour and would operate largely in the relief of the existing distress:

And whereas negotiations have been entered into between the Killorglin Company and the Company for the transfer of the powers of the Killorglin Company to the Company and the Company are willing to take over the powers of the Killorglin Company and to construct the said railway and to work the same as part of their undertaking and it is expedient in the interest of the public and of the district traversed by the said railway that the Company should be authorised to construct the said railway and to exercise the other powers of the Killorglin Company and that the Killorglin Company should be dissolved:

And whereas it is expedient that the time limited for the completion of the railway and works authorised by the Act of 1880 should be extended:

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 whereas the authorised loan capital of the Company consists of the sum of one million one hundred and three thousand nine hundred and sixty-five pounds:

And whereas it is expedient that the Company should be authorised to raise the capital necessary for the construction of the Killorglin Railway by a further issue of debenture stock equal in amount to the share and loan capital authorised by the Act of 1880:

And whereas the objects aforesaid cannot be effected without the authority of Parliament:

May it therefore please Your Majesty, that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited for all purposes as the Great Southern and Western Railway (Killorglin Railway Transfer) Act 1881.

Incorporation of portion of 26 & 27 Vict. c. 118.

2. Part III. relating to debenture stock of the Companies Clauses Act 1863 is incorporated with and forms part of this Act.

Dissolution of Killorglin Company and vesting of undertaking in Company.

3. On the passing of this Act the Killorglin Company shall be and the same is hereby dissolved and the undertaking thereof shall be and the same is hereby transferred to and vested in the Company who may in their own name and under their own seal or under the hands of their directors secretary officers and servants exercise all the powers by the Killorglin Acts conferred upon or vested in the Killorglin Company and extended by this Act except only the powers of raising money which powers are by this Act repealed And the dissolution transfer and vesting aforesaid shall be deemed an amalgamation within Part V. of the Railways Clauses Act 1863 relating to amalgamation.

26 & 27 Vict. c. 92.

Baronial guarantees to remain in force.

4. Notwithstanding the transfer to and vesting in the Company of the undertaking of the Killorglin Company the sum or amount required to make up a dividend of five pounds per centum per annum on sixty thousand pounds being the amount which the Killorglin Company were authorised by the Act of 1880 to raise by shares shall be payable to the Company half yearly in manner provided by the said Act by the several baronies of Magonihy Iveragh Corkaguiney and Trughenackmy and that portion of Dunkerron North which is situate in the poor law unions of Killarney and Cahirciveen all in the county of Kerry and the provisions of that Act as to ascertaining the net profits of the railway and as to ascertaining the half-yearly sum to be paid by the said baronies and portion of barony shall remain in full force and effect and the Company shall for such purposes keep all such accounts of expenditure and receipts as the Killorglin Company were by that Act required to keep.

Extension of time for completion of railway.

5. Section twenty-three of the Act of 1880 shall be read and have effect for all purposes as if the first day of November one thousand eight hundred and eighty-three had been inserted therein instead of the first day of November one thousand eight hundred and eighty-two.

Penalty imposed unless the line is opened within the time limited.

6. If the Company fail within the period limited by the Killorglin Railway Act 1880 as extended by this Act to complete the railway the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said railway is completed and opened for public traffic or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act or by the solicitor of Her

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17 & 18 Vict. c. 31.

Majesty's Treasury and in the same manner as the penalty provided in the third section of the Railway and Canal Traffic Act 1854 And every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of the Accountant-General of the Chancery Division of the High Court of Justice in Ireland in the bank named in such warrant or order and shall not be paid thereout except as herein-after provided but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the railway by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

7. Every sum of money so recovered by way of penalty 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 has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway authorised by the Killorglin Acts 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 Killorglin Company by the Killorglin Acts and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in Ireland may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court thinks fit to order on the application of the solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the said 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.

Provision for return of deposit.

8. Subject to the provisions of section forty-three of the Act of 1880 with respect to compensation to landowners and other persons injuriously affected and for protection of creditors the Chancery Division of the High Court of Justice in Ireland at any time after the passing of this Act on the application of the person or persons named in the warrant or order mentioned in section forty-two of the said Act of 1880 or the executors or administrators of such person or persons by petition in a summary way may and shall order that the sum of three thousand pounds mentioned in the said section forty-two (and therein referred to as "the deposit fund") and the interest or dividends (if any) on that sum shall be transferred and paid to the person or persons so applying or to any other person or persons whom he or they may appoint in that behalf and on such order being made the said sum and the interest or dividends thereon shall be transferred and paid to such person or persons accordingly.

Directors of Killorglin Company to wind up affairs.

9. The directors of the Killorglin Company who are in office at the time of the passing of this Act and the survivors or survivor of them may notwithstanding the dissolution of that Company continue to act and may take any proceedings necessary or proper for winding up the affairs of that Company and distributing the assets thereof (if any).

Debenture stock.

10. The Company may for the purposes of constructing the Killorglin Railway create and issue debenture stock not exceeding in the whole ninety thousand pounds 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 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.

Application of moneys.

11. All moneys raised under this Act by debenture stock shall be applied to the purposes of this Act and to the general purposes of the undertaking of the Company and to no other purpose.

Company may apply corporate funds to purposes of Act.

12. The Company may from time to time apply for or towards all or any of the purposes of this Act any sums of money which they have already raised or are authorised to raise by any of their Acts and which are not required for the purposes to which they are by those Acts made specially applicable.

Deposits for future Bills not to be

13. The Company shall not out of any money by this or any other Act relating to the Company authorised to be raised pay or

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paid out of capital.

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.

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

Expenses of Act.

15. 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.

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