CHAP. clxxviii.

An Act for making a Railway in the county of Kerry, from Killorglin to the Farranfore Station of the Great Southern and Western Railway; and for other purposes. A.D. 1871.

[31st July 1871.]

WHEREAS the making of a railway in the county of Kerry, commencing by a junction with the railway of the Great Southern and Western Railway Company (herein called the Great Southern Company) in the townland of Farranfore and parish of Molahiffe, at their Farranfore Station, and terminating near the bridge over the river Laune at Killorglin, would be of great local and public advantage:

And whereas the persons herein-after named, with other persons and corporations, are willing to make such railway:

And whereas by "The Killarney Junction Railway Act, 1851," (herein called the Act of 1851,) in consideration of the advantage and improvement the construction of the railway by that Act authorised would be to the counties of Kerry and Cork, by tending to lessen the amount of poors rates by affording increased employment, several baronies and half baronies in the said counties were required to guarantee the payment of interest on loans for the purposes of the Killarney Junction Railway in certain events in the said Act mentioned: 14 & 15 Vict. c. ciii.

And whereas the railway authorised by the Act of 1851 has been constructed and opened to the public:

And whereas by "The Tralee and Killarney Railway Act, 1854," (herein called the Act of 1854,) the Killarney Junction Railway Company were empowered, with the consent of the shareholders thereof at a general meeting of such company, and also with the consent of the mortgagees or bond creditors of that company to whom the rates leviable off the baronies or portions of baronies mentioned in the said Act of 1851 had been granted in security, to release the said several baronies and portions of baronies in the 17 & 18 Vict. c. cxlii.

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counties of Kerry and Cork from all liabilities under the Act of 1851:

And whereas the said baronies or parts of baronies in the counties of Kerry and Cork have been released from all liabilities under the Act of 1851:

17 & 18 Vict. c. cxlii.

And whereas by "The Tralee and Killarney Railway Act, 1854," (herein referred to as the Act of 1854,) it was enacted that, in consideration of the advantage and improvement the construction of the railway by that Act authorised would be to the county of Kerry by tending to lessen the amount of poors rate therein by affording increased employment, several baronies of Magonihy, Dunkerron North, Dunkerron South, Iveragh, Glanerought, Trughenacmy, Corkaguiny, Clanmaurice, and Iraghticonnor, in that county, were required to guarantee the payment of interest of any moneys to be borrowed to complete such railway under the provisions of that Act:

And whereas the railway authorised by the Act of 1854 has been constructed and opened for public use:

And whereas the Killarney Junction Railway Company and the Tralee and Killarney Junction Railway Company, and their undertakings, have become merged with the undertaking of the Great Southern Company, and the guarantee granted by the said Act of 1854 by certain baronies therein mentioned to pay interest on loans in certain events is now vested in the Great Southern Company:

And whereas the Great Southern Company are willing to release such baronies as were made liable to guarantee the said loans under the Act of 1854:

And whereas the construction of the intended railway will contribute to the advantage and improvement of the county of Kerry, and will tend to lessen the amount of poors rates therein, by affording increased employment, and it is therefore expedient that the several baronies of the county of Kerry should, to the extent herein-after mentioned, pay or contribute towards the payment of any moneys, and the interest of any moneys, borrowed to complete such railway under the provisions of this Act:

And whereas a resolution was unanimously adopted at the Spring Assizes, 1871, of the grand jury of the county Kerry, held in and for the said county at Tralee, recommending a guarantee of five pounds per centum on the sum of twenty thousand pounds to be borrowed for the purposes of the railway by this Act authorised:

And whereas it is expedient to enable the Company and the Great Southern Company to enter into contracts and agreements in manner herein-after provided:

And whereas plans and sections of the railway by this Act authorised, and books of reference to those plans, have been deposited

with the clerk of the peace of the county of Kerry, which plans and sections and books of reference are in this Act referred to as the deposited plans, sections, and book of reference respectively:

And whereas the several purposes 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 authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Killorglin Railway Act, 1871."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," and Part I. of "The Companies Clauses Act, 1863," and "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts, 1860 and 1869," "The Railways Clauses Consolidation Act, 1845," "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," Part I. and Part III. of "The Railways Clauses Act, 1863," save so far as any of the sections and provisions of those Acts respectively are by this Act expressly varied or excepted, shall be incorporated with and form part of this Act.

Interpretation of terms.

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. The expression "the Company" means the Company incorporated by this Act.

As to deposit of plans with clerks of unions.

4. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that certificates of any omissions, misstatements, or erroneous descriptions in certain plans and books of reference therein referred to should be deposited with the postmasters of the post towns in or nearest to the several parishes in Ireland in which the lands affected thereby should be situate; and it is also provided that certain plans and sections of such alterations in the original plans and sections as shall have been approved of by Parliament should also be deposited with such postmasters, and be retained and produced by them for inspection in manner therein mentioned: And whereas, in compliance with the standing orders of both Houses of Parliament, the several plans, sections, and other documents heretofore required to be deposited with the postmasters of the post towns in Ireland are now deposited with the clerks of the unions instead of such postmasters: Be it therefore enacted that, with

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reference to this Act, all the provisions of "The Railways Clauses Consolidation Act, 1845," relating to the matters aforesaid, and to the expression "postmasters of the post towns in or nearest to such parishes in Ireland," or the word "postmaster," in the said Act, shall be read and construed as if the expression "clerks of the unions within which such parishes are included in Ireland," or the words "clerk of the union" (as the case may be), had been used and inserted in such Act in lieu of the expression "the postmasters of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmaster" (as the case may be).

Company incorporated.

5. Charles Chute, Thomas Hodgins, Jonathan Walpole, Alexander Raymond, and Redmond Roche, junior, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a Company for the purpose of making and maintaining the railway and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Killorglin Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Capital.

6. The capital of the Company shall be forty thousand pounds, in four thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

7. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twenty thousand pounds, but no part thereof shall be borrowed until the whole capital of forty thousand pounds is subscribed for, issued, and accepted, and one-half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital has been subscribed for, issued, and accepted, and that one half 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 that such capital was issued bonâ fide, and is held by the subscribers or their assigns, and that such subscribers or their 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. A.D. 1871.

Arrears may be enforced by appointment of a receiver.

10. 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, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than two thousand pounds in the whole.

Power to Great Southern Railway Company to release baronies.

11. It shall be lawful for the Great Southern Company, with the consent of the shareholders thereof, at a general meeting of such Company, in accordance with the provisions of "The Companies Clauses Consolidation Act, 1845," and also with the consent in writing of all and every mortgagee or mortgagees or bond creditor or creditors of the said Company to whom the rates leviable off the said baronies in the county of Kerry in the said Act of 1854 mentioned have been granted as part security, to release at any time after the passing of this Act, by writing under their common seal, the said baronies in the county of Kerry of and from all assessments, payments, claims, charges, taxes, and liabilities whatsoever under the provisions of the said Act of 1854, and thereupon the said baronies shall be absolutely freed and discharged from all charges or liabilities whatsoever under the provisions of the said Act.

Baronies to pay interest on loans in certain events.

12. If any moneys shall be borrowed by the Company under the provisions of this Act, and if the said several baronies in the county of Kerry shall have been released from all assessments, payments, claims, charges, taxes, and liabilities whatsoever under the provisions of the said Act of 1854, then a sum equal to the half-yearly interest on the sum or sums so borrowed and remaining unpaid, but not exceeding the rate of five pounds per centum per annum on such sum or sums, shall (subject as herein-after mentioned) be paid half-yearly to the said Company by the said several baronies of Magonihy, Dunkerron North, Dunkerron South, Iveragh, Glanerought, Trughenacmy, Corkaguiny, Clanmaurice, and Iraghticonnor, all in the county of Kerry, rateably and in the proportions to be ascertained as herein-after mentioned: Provided nevertheless, that if, after the said railway or any part thereof shall have been opened,

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there shall be any profit arising from the said railway in any half year (such profit to be ascertained as herein-after mentioned), then the amount thereof shall be deducted from the half-yearly amount which would otherwise be payable by such baronies; and if such profit shall equal or exceed the amount so to be paid, then no such payment shall be made by such baronies for such half year; provided also, that if the profit in any half year shall exceed the amount of interest payable by such baronies, then the amount of surplus profit shall be deducted from the half-yearly amount payable by such baronies for the next subsequent half year; provided further, that no liability to any of such payments shall attach to any of the said baronies until the said railway shall have been completed and opened for public traffic.

Board of Trade to appoint arbitrators to determine proportion to be paid by each barony, &c.

13. For the purpose of ascertaining the proportions in which such baronies shall pay the said sum so to be paid half-yearly as aforesaid, and during such time as the same shall be payable, it shall be lawful for the Board of Trade (at or upon the request of the said Company) from time to time, by warrant under the hand of their secretary for the time being, to appoint as arbitrators the county surveyors for the time being of the county of Kerry and two other persons to be selected by the said 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, such arbitrators taking into consideration the benefit or supposed benefit (immediate or prospective) which such baronies may, in their opinion, be likely to derive from the formation and opening of the said 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 said Board of Trade, by writing under the hand of their secretary, to be endorsed upon the said award, be in all respects final and binding on the said baronies; and from and immediately after the allowance of such award by the said Board of Trade the said several baronies, 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 said Board of Trade shall determine.

Board of Trade to appoint

14. The Board of Trade shall 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 herein-after contained; 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.

auditors of Company's accounts.

15. For the purpose of ascertaining the amount of net profits (if any) of the said railway, the Company shall from time to time and at all times, and within one calendar month after the thirtieth day of June and the thirty-first day of December in every year, make out or cause to be made out and rendered to the said auditor or auditors a full, true, and distinct account of all the receipts and expenditure for the then preceding half year of and relating to the said railway and every part thereof, which account the said auditor or auditors shall, and he or they is and are hereby authorised and empowered to examine, with the documents and vouchers evidencing the same (which documents and vouchers, and all books, papers, and accounts in the custody or control of the Company, relating to the business of the Company, shall, upon the request of the said auditor or auditors, be forthwith produced by the Company to such auditor or auditors, who shall be at liberty to examine the same); and for the purpose of judging of the accuracy of such account such auditor or auditors shall and may, and he and they is and are hereby empowered to examine all the accounts of the Company, which said accounts, and the vouchers relating to the same, the Company are hereby directed to keep and produce during such time as aforesaid as the said auditor or auditors shall direct, and such auditor or auditors shall adjust and balance such accounts; and as to all other matters relating to the said accounts, or what shall be considered as profit, their decision shall in all respects be final and conclusive on all parties.

Company to keep accounts of profits.

16. On the completion of every half-yearly audit, such auditor or auditors shall ascertain and determine whether the Company have, by themselves or otherwise, for the preceding half year, made such half-yearly payments as, by virtue of the security or securities for any such loan or loans, the Company shall be liable to pay, and shall ascertain and determine the amount (if any) of profit

Auditors to ascertain payments made by Company, and amount of profit.

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which shall appear on such account to have been made during such half year.

Auditors to certify sums payable by baronies.

17. After the said railway shall have been completed and opened for public traffic, when and as often as such auditor or auditors shall find that the Company have made such payments as aforesaid for the preceding half year, and not before, then he or they shall, by a certificate under his or their hand or hands, certify the same, and also the amount of profit (if any) appearing on such account as aforesaid, and after deducting such profit (if any) from the amount of the said half-yearly payments of two pounds ten shillings per centum, or such other and lesser sum as aforesaid, to be paid by such baronies as aforesaid, the said auditor or auditors shall in such certificate ascertain and state the proportionate part of such instalments which is to be raised and levied in each such barony, such proportionate parts to be ascertained and determined according to the several proportions to be specified and set forth in the award of the arbitrator or arbitrators, as herein-before mentioned: Provided, nevertheless, that when and so often as the profit on any such account as aforesaid shall equal or exceed the said half-yearly payment of two pounds ten shillings per centum, or such other and lesser sum as aforesaid to be paid by such baronies, then such auditor or auditors shall state the same in such certificate, and that consequently for such half year no payment is to be made in respect of such half-yearly payments secured to be made by the said baronies; and every such certificate shall be final and binding on all parties; provided also, that whenever in any half year the amount of profit shall not equal the amount of interest payable by such baronies, the said auditor or auditors shall and he is or they are hereby required to take into account the surplus profit (if any) of the next preceding half year, and to deduct from the amount to be paid by such baronies the amount of such surplus profit, and shall state in the said certificate the amount of surplus profit so deducted.

Provisions with respect to profit and loss account.

18. In taking and keeping the aforesaid account of profit and loss, no payment by the Company, nor any receipts by the Company in respect of such half-yearly payments of two pounds ten shillings per centum, or such other and lesser sum as aforesaid, shall be taken into account as profit or loss, but the same shall solely contain the amount of income and expenditure relating to the railway.

Auditors to deliver certificate to Company.

19. The said auditor or auditors shall, on the request of the Company, and within one calendar month after the date of every such certificate, deliver the said certificate and a duplicate or duplicates thereof to the Company.

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Sums mentioned in auditors certificate to be presented by grand jury, and paid by treasurer.

20. The Company shall from time to time deliver such certificate or such duplicate thereof as aforesaid to the secretary of the grand jury of the county of Kerry, and such secretary shall lay such certificate or duplicate thereof before the grand jury of such county at the assizes next after he shall have received the same; and it shall be lawful for such grand jury, and they are hereby required from time to time, and without application to presentment sessions, to present the sum mentioned in every such certificate relating to such barony to be raised and levied off such respective baronies, 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 said Company, or in such other manner as the said 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 such county or barony, the treasurer of such 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 respective baronies chargeable therewith as aforesaid, and the same shall be raised and levied off such 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-before provided, as if such money had been presented by such grand jury.

Condition of bonds by collectors of grand jury cess.

21. 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.

Remuneration to collector to be presented by grand jury.

22. The grand jury of the said county shall also present such sum of money to be levied off any such barony as aforesaid, to be paid to any such collector as aforesaid for his remuneration in the collection of such assessment, as is payable in the case of the collection of grand jury cess.

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In a certain event, the baronies to be recompensed out of the profits of the undertaking.

23. 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 December within ten years from any period at which any such payment 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 the then existing mortgage or bond debt of the Company, and also after deducting a sum sufficient for paying to the shareholders a dividend, at the rate of four 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 baronies aforesaid 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 baronies aforesaid 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 shall bear to the aggregate amount which shall have been paid during the same period by such baronies aforesaid.

Auditors to deliver a certificate to the treasurer of the county of Kerry, stating what proportion of the surplus such treasurer is entitled to receive.

24. The auditor or auditors shall, within one month from the time at which he or they shall have certified as aforesaid to the treasurer of the said 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 such certificate shall 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 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, removal, 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.

No payments to be made by the baronies after the expiration of 23 years from the passing of this Act.

25. After the expiration of twenty-three years from the passing of this Act, no further payment to the Company shall be made by the said baronies, or any of them, 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 baronies shall for ever cease and determine.

Power to make railway.

26. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, 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 that purpose. The railway herein-before referred to and authorised by this Act is—

A railway eleven miles and six furlongs in length or thereabouts, commencing by a junction with the Great Southern and Western Railway at Farranfore Station on said railway, and terminating at the north side of the quay on the east side of the river Laune, which quay is one hundred yards or thereabouts below the bridge at Killorglin over said river, at a point fifty yards or thereabouts measured in an easterly direction from the north-west corner of said quay.

Application of moneys.

27. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

28. The first ordinary meeting of the Company shall be held within four months after the passing of this Act.

Number of directors.

29. The number of directors shall be four, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

30. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum.

31. The quorum of a meeting of directors shall be three, but in case the number of directors shall be reduced to three, the quorum shall be two.

First directors.

32. The Right Honourable Day Rolles Baron Ventry, the Right Honourable Charles Allanson Baron Headley, John Fermor Godfrey, and Samuel Murray Hussey shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in

Election of directors.

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office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained, and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Lands for extraordinary purposes.

33. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act, 1845," shall not exceed two acres.

Powers for compulsory purchases limited.

34. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power to cross certain roads on the level.

35. Subject to the provisions in "The Railways Clauses Consolidation Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways 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 roads next herein-after mentioned; (that is to say),

No. on deposited plan.	Townland.	Parish.	Description of road.
11	Killahane - -	Molahiffe -	Public.
3	Ballinvarrig -	Molahiffe -	Public.
28	Gortnaglogh -	Kilnanare -	Public.
45	Cloonmore - -	Kilcolman -	Mail-car road.
10	Rathpoge, East -	Kilcolman -	Public.
11	Kilderry, North -	Kilcolman -	Public.
11	Tinnahally - -	Killorglin -	Public.

Provided that the gradient of the mail-car road, where it is crossed by the railway at Kilcolman, shall not exceed one in forty.

Deposit money not to be repaid until line opened, or

36. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of two thousand pounds, being five per centum upon the amount of the estimate in respect

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half the capital paid up and expended.

of the railway authorised by this Act, has been deposited with the Court of Chancery in Ireland in respect of the application to Parliament for this Act: Be it enacted that, notwithstanding anything contained in the said recited Act, the said sum of two thousand pounds so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or 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, unless the said Company shall, previously to the expiration of the period limited by this Act for completion of the railway hereby authorised to be made, either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations that the said Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the said Company shall either have opened the said railway for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

37. The said sum of money deposited 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 said 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 this Act, 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 said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority

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of the persons, named in such warrant or order as aforesaid, or the survivor or survivors of them: Provided that until the said sum of money 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

38. The railway shall be completed within five years from the passing of this Act, and if the railway shall not be completed within that period, then on the expiration thereof the powers by this Act granted to the Company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Tolls for passengers.

39. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

In respect of passengers and animals conveyed on the railway:

For every person conveyed in or upon any carriage on the railway, per mile not exceeding twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one penny halfpenny:

For every horse, mule, ass, or other beast of draught or burden, and for every ox, cow, bull, or neat cattle conveyed in or upon any such carriage, per mile not exceeding threepence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one penny:

For every calf, or pig, sheep, lamb, or other small animal conveyed in or upon any such carriage, per mile not exceeding one penny; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one farthing.

Tolls for goods.

40. In respect of goods conveyed on the railway:

For all coals, cinders, dung, compost, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, per ton per mile not exceeding one penny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny:

For all coke, culm, and charcoal, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, sand, ironstone and iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron, and iron castings not

manufactured into utensils, or other articles of merchandise, per ton per mile not exceeding one penny halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny:

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, and deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile twopence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding three farthings:

For all cotton and other wools, drugs, manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile not exceeding threepence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny: And for every carriage of whatever description, and not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, per mile sixpence;

And a sum of twopence per mile for every additional quarter of a ton, or fractional part of a quarter of a ton, which any such carriage may weigh; and if conveyed on a truck or platform belonging to the Company, an additional sum per mile not exceeding twopence.

Tolls for propelling power.

41. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

Maximum rates for passengers.

42. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

For every passenger conveyed in a first-class carriage, the sum of threepence per mile:

For every passenger conveyed in a second-class carriage, the sum of twopence per mile:

For every passenger conveyed in a third-class carriage, the sum of one penny per mile.

Maximum rates for animals and goods.

43. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or

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trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the Company), shall not exceed the following sums; (that is to say,)

For all coals, cinders, dung, compost, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, per ton per mile one penny halfpenny;

For all coke, culm, and charcoal, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, sand, ironstone and iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron, and iron castings not manufactured into utensils, or other articles of merchandise, per ton per mile twopence halfpenny;

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, staves, and deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile twopence halfpenny;

For all cotton and other wools, drugs, manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile threepence halfpenny;

For every carriage of whatever description, and not being adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, per mile sixpence;

For every horse, mule, ass, or other beast of draught or burden, per mile fourpence, and for every ox, cow, bull, or neat cattle conveyed in or upon any such carriage, per mile twopence;

And for every calf, or pig, sheep, lamb, or other small animal conveyed in or upon any such carriage, per mile three farthings.

Regulations as to tolls.

44. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; (that is to say,)

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles, the Company may demand tolls and charges as for four miles:

For a fraction of a mile beyond four miles or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile, such fraction shall be deemed a quarter of a mile; and in respect of passengers every

fraction of a mile beyond an integral number of miles shall be deemed a mile:

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton:

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small parcels, and single articles of great weight.

45. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway:

For any parcel not exceeding seven pounds in weight, fourpence:

For any parcel exceeding seven pounds in weight and not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen pounds in weight but not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight pounds in weight but not exceeding fifty-six pounds in weight, ninepence; and for any parcel exceeding fifty-six pounds in weight, the Company may demand any sum which they may think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall exceed four tons but shall not exceed eight tons, the Company may demand such sum as they think fit, not exceeding sixpence per ton per mile:

For the carriage of any single piece of stone, timber, machinery, or other single article, the weight of which, with the carriage, shall exceed eight tons, the Company may demand such sum as they think fit.

Passengers luggage.

46. Every passenger travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty

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pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal station.

47. No station shall be considered a terminal station in regard to any goods conveyed on the railway, unless such goods have been received thereat direct from the consignor or are directed to be delivered thereat to the consignee.

Restrictions as to charges not to apply to special trains.

48. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the Company may make such charges as they think fit, but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods upon the railway.

Company may take increased charges by agreement.

49. Nothing in this Act shall prevent the Company from taking any increased charges over and above the charges by this Act limited for the conveyance of animals or goods of any description, by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

Power to enter into traffic arrangements with Railway Company.

50. The Company on the one hand, and the Great Southern Company on the other hand, may from time to time enter into contracts or arrangements with respect to the following purposes, or any of them; (that is to say,)

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

The supply of any rolling or working stock, 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.

Committees may be appointed.

51. The companies may by any such agreement, if they think fit so to do, appoint a joint committee from each of the board of directors for the purpose of carrying into effect the terms and conditions and purposes of the agreement.

Tolls on traffic conveyed partly on the rail-

52. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway by the Great Southern Company, the railways of the Company and of the

Great Southern Company shall, for the purposes of tolls and charges, be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the Great Southern Company for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four miles, tolls and charges as for one mile only; and in respect of animals and goods, for every quarter of a mile or fraction of a quarter of a mile beyond four miles, tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railway and partly on the railway of the Great Southern Company.

way and partly on the railway of the Great Southern Company.

53. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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.

54. 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 authorising the Company to construct any other railway or to execute any other work or undertaking.

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

55. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorised to be made 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.

Railway not exempt from provisions of present and future general Acts.

56. 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.

Expenses of Act.

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