CHAPTER XXV.

An Act to enable the Castleisland Railway Company to raise additional Capital; to enable the Grand Jury of the county of Kerry to give a Baronial Guarantee, and to levy cesses in the Barony of Trughenackmy in the said county; and for other purposes. [30th June 1874.]

A.D. 1874.

WHEREAS by "The Castleisland Railway Act, 1872," (in this Act referred to as the Act of 1872,) the Castleisland Railway Company (in this Act referred to as the Company) were authorised to construct a railway in the county of Kerry, commencing by a junction with the railway of the Great Southern and Western Railway Company, in the townland of Glanbane, and terminating in the town of Castleisland: 35 & 36 Vict. c. vii.

And whereas the Company were authorised to raise capital to the amount of twenty thousand pounds in two thousand shares of ten pounds each:

And whereas the Company are proceeding with the making of the railway, which is very much advanced, and have raised by shares and expended on the same a sum of about eight thousand seven hundred and seventy pounds:

And whereas there remains of the share capital authorised by the Act of 1872 the sum of eleven thousand two hundred and thirty pounds unissued:

And whereas it is expedient to authorise the Company to raise an additional sum of five thousand pounds by means of shares:

And whereas the Company were authorised to borrow on mortgage any sum not exceeding ten thousand pounds, and a baronial guarantee by the barony of Trughenackmy, in the county of Kerry, was attached to the money authorised to be borrowed, but no part of the said money has been borrowed, and it is expedient to repeal the provisions of the said Act authorising a guarantee for the borrowed money:

A.D. 1874.

And whereas, having regard to the public and local advantages which will accrue to the said barony by reason of the construction of the railway, it is expedient that various sections of the said Act of 1872 should be amended or repealed, and a guarantee should be authorised by the said barony on the sum of eleven thousand pounds, part of the share capital authorised by the Act of 1872 remaining unissued, and on the sum of five thousand pounds, being the additional share capital authorised to be raised by this Act, so as to ensure the completion of the railway:

And whereas the grand jury of the county of Kerry, at the spring assizes, one thousand eight hundred and seventy-four, and the ratepayers of the said barony at presentment sessions assembled, did respectively approve of the provisions in this Act contained:

And whereas the purposes 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 as "The Castleisland Railway Amendment Act, 1874."

Construction of Act.

2. "The Castleisland Railway Act, 1872," as amended by this Act, and this Act shall be together construed as one Act.

Provisions of certain general Acts incorporated.

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

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions, and the means of enforcing the payment of calls;

The forfeiture of shares for the nonpayment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of the shares into stock;

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

The making of dividends;

The giving of notices; and

The provision to be made for affording access to special Act by all parties interested;

and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to

debenture stock) of "The Companies Clauses Act, 1863," and "The Companies Clauses Act, 1869," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

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

Power to raise additional capital.

5. The Company may, for the general purposes of their undertaking, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," raise any additional sum or sums not exceeding in the whole five thousand pounds by the issue of new ordinary shares or new preference shares, and the Company may also issue as preference shares the said sum of eleven thousand pounds remaining unissued of the share capital authorised by the Act of 1872, and they may attach to all such new and unissued shares a preference as herein-after provided.

Provision for preferred shares.

6. It shall be lawful for the Company on issuing the said capital of eleven thousand pounds authorised to be raised by shares by the Act of 1872, and also on creating and issuing the additional share capital of five thousand pounds authorised to be raised by this Act, to provide that the shares so issued shall be entitled, at the termination of the period authorised by this Act for the continuance of the guarantee by the barony of Trughenackmy, to a preferential dividend after the rate of five per centum per annum out of the profits of the railway in each year, in priority to the ordinary shares of the Company.

Shares not to issue until one fifth paid up.

7. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds, 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 is paid in respect thereof.

Section of Act of 1872 repealed.

8. Section 9 of the Act of 1872, as to calls, in so far as the same applies to the unissued share capital of eleven thousand pounds, shall be and the same is hereby repealed; and the Company may call up the said share capital, and also the additional share capital authorised by this Act, in such manner as they shall think proper.

Sections of Act of 1872 repealed.

9. Sections 12 to 24 inclusive of the Act of 1872, relating to the guarantee by the barony of Trughenackmy on the capital authorised by the said Act of 1872 to be borrowed, shall be and the same are hereby repealed.

A.D. 1874.

Debenture stock.

10. The Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863;" but, notwithstanding anything therein contained, the interest of all debenture stock at any time 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 mortgage.

Application of moneys.

11. All moneys raised under the authority of this Act, whether by shares or debenture stock, shall be applied for the purposes of the Act of 1872 and of this Act only.

Barony to contribute during the construction of railway.

12. From and after the passing of this Act, and for the period granted for the completion of the railway by the Act of 1872, or such lesser period if the railway shall be completed and opened for traffic sooner than the period granted by the said Act for its completion, the sum or amount required to pay a dividend of five pounds per centum per annum on the said sum of eleven thousand pounds of unissued share capital authorised to be raised by the Act of 1872, and on five thousand pounds of additional share capital authorised to be raised by this Act (the said sums amounting to the sum of sixteen thousand pounds), or so much thereof as shall be from time to time paid up, shall be payable half-yearly by the said barony of Trughenackmy: Provided that if the railway shall not be completed and opened for traffic within the period granted by the said Act of 1872 for its completion, the said dividends shall cease to be payable until after the opening of the railway for public traffic.

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

13. After the opening of the railway for public traffic, and for a period of thirty-five years thereafter, the nett profits of the railway, (such nett profits to be ascertained as by this Act directed,) after payment of the gross working expenses, and the interest payable, if any, on such sum or sums as may have been borrowed under the Act of 1872 or this Act, shall be applied to the payment of dividend equally on the whole of the share capital of the Company, amounting to twenty-five thousand pounds, or so much thereof as shall from time to time be issued and paid up; and if and whenever during the said period of thirty-five years the nett profits from the railway, after making the payments before mentioned, shall not amount to a sum equal to a dividend at the rate of five pounds per centum per annum on the paid-up share capital of the Company, the amount required to make up such dividend on the said sum of sixteen thousand pounds shall become payable half-yearly by the said barony.

A.D. 1874.

Board of Trade may appoint auditors.

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

Account of receipts and expenditure to be rendered.

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

A.D. 1874.

relating to the said accounts, or as to what part of the said sum of sixteen thousand pounds has been expended up to the time of the opening of the said railway, and after the opening thereof as to what part shall be considered as profit, their decision shall in all respects be final and conclusive on all parties.

Auditors to ascertain amount to be paid by the barony.

16. The said auditor or auditors shall from time to time, until the opening of the railway for public traffic, ascertain, assess, and determine the amount necessary to be paid in each half year by the said barony, and after the opening of the railway shall from time to time ascertain and determine the amount of nett receipts respectively in each half year applicable to the payment of the said dividend on the said sum of sixteen thousand pounds as provided by this Act, and shall also assess and determine the amount, if any, necessary to be paid and made up by the said barony liable to pay the same, and shall set forth the several matters so ascertained and determined by him or them in a certificate in writing under his or their hands, or if their number should consist of three, under the hands of any two of them, and every such certificate shall be in all respects final and binding on the said barony.

Auditors to deliver certificate to the Company.

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

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

18. The Company shall from time to time deliver such certificate, or such duplicate thereof as aforesaid, to the secretary of the grand jury for the county of Kerry, and such secretary shall lay such certificate or duplicate thereof before the grand jury of the said county at the assizes next after he shall have received the same; and the said grand jury shall from time to time at such assizes, and without any reference to presentment sessions, present the sum mentioned in such certificate relating to the said barony to be raised and levied off the said barony; and the same shall be raised and levied accordingly, together with and in like manner and subject to like provisions as other moneys presented by such grand jury at the same assizes are raised and levied, and the treasurer of such county, out of the first moneys collected and remaining in his hands after repayment of Government advances, gaol expenses, and salaries of public officers payable by him, shall pay the sum so presented by the grand jury unto the Company, or in such other manner as the Company shall direct; and if the said grand jury shall fail to present the sum or any part thereof contained in any such certificate relating to the said barony, the treasurer of the said county

shall and he is hereby required to insert such sum or such omitted part thereof in his warrant for raising the moneys presented at the same assizes as if such sum had been duly presented by such grand jury to be raised in manner herein-before mentioned off the said barony chargeable therewith as aforesaid, and the same shall be raised and levied off the said 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.

19. Every bond of a collector of grand jury cess for the said barony of Trughenackmy 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.

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

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

21. If at any time it shall appear to the said auditor or auditors that the nett profits of the Company in any year ending on the thirty-first day of October within ten years from any period at which any such payment by the said barony as aforesaid shall have been made shall have amounted to such a sum as to leave a surplus, after deducting a sum sufficient to pay the interest for that year upon any moneys under the Act of 1872, or under this Act, borrowed by the Company, and also after deducting a sum sufficient for paying to the shareholders a dividend at the rate of five per centum per annum on the then paid-up capital of the Company, the said auditor or auditors shall and he is or they are hereby required forthwith to certify such fact by writing under his or their hand or hands, stating the amount of any such surplus to the treasurer for the time being of the said county, and thereupon the said treasurer shall be entitled to receive from the Company the said surplus to an extent not exceeding the aggregate amount of payments made by the said barony since the passing of this Act, and the said treasurer shall apply the sum so received by him in aid of the county cess upon the said barony.

A.D. 1874.

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

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

Period at which liability of the barony is to cease.

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

Tenants to deduct half cess from the rent.

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

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

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

when originally created shall not have been less than nine hundred years, shall deduct any portion of such rate or cess from the rent payable by him in respect of such hereditaments.

Receipt for rate to be taken in discharge.

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

Exemption in favour of Great Southern and Western Railway Company.

27. Provided always, that the lands, property, stations, houses, goods, stores, railway and premises, in the county of Kerry, belonging to the Great Southern and Western Company, shall not be liable to be rated or assessed for the purposes of the baronial guarantee by this Act authorised to be levied.

Interest to be paid on calls paid up.

28. The Company shall not, out of any money by this Act authorised to be raised by shares 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, but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

29. 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

A. D 1874

Company to construct any other railway, or to execute any other work or undertaking.

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

30. Nothing herein contained shall be deemed or construed to exempt the railway from the provisions of any general Act relating to railways, or the better and more impartial auditing of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revising or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by the Act of 1872.

Expenses of Act.

31. 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.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1874.