CHAPTER cxxvi.

An Act for enabling the Great Southern and Western Railway Company to extend their railway to Tullow in the county of Carlow; and for other purposes. A.D. 1884.

[14th July 1884.]

WHEREAS it is expedient that the Great Southern and Western Railway Company (in this Act called "the Company") should be empowered to construct a railway from Baltinglass in the county of Wicklow to Tullow in the county of Carlow:

And whereas plans and sections showing the respective lines and levels of the intended railway by this Act authorised to be made and also books of reference containing the names of the owners and lessees or of the reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes of such railway or under the powers of this Act were duly deposited with the clerks of the peace for the counties of Wicklow and Carlow respectively within which counties the said railway and works will be constructed which plans sections and books of reference are in this Act referred to as the deposited plans sections and books of reference:

And whereas the construction of the said railway will contribute to the advantage of the county of Carlow and it is expedient that the grand jury of the said county should be authorised to guarantee interest on the cost of constructing the said railway in manner herein-after mentioned:

And whereas a copy of the Bill for this Act as deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons was submitted to the grand jury of the county of Carlow and to the presentment sessions of the baronies named in this Act and to the boards of guardians of the several unions affected thereby and was approved by those respective bodies:

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And whereas the Company have by their various Acts been authorised to raise the sum of six millions 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 three hundred and ninety-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 purposes of this Act by a further issue of debenture stock:

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:—

Short title.

1. This Act may be cited for all purposes as the Great Southern and Western Railway (Tullow Extension) Act 1884.

Incorporation of general Acts.

2. The Companies Clauses Consolidation Act 1845 and Part III. relating to debenture stock of the Companies Clauses Act 1863 the Lands Clauses Consolidation Act 1845 as amended by the Railways Act (Ireland) 1851 the Railways Clauses Consolidation Act 1845 the Railways Act (Ireland) 1851 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Act (Ireland) 1860 the Railways Act (Ireland) 1864 the Railways Traverse Act and Part I. (relating to construction of a railway) of the Railways Clauses Act 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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

As to deposit of plans with clerks of unions.

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 instead of the expression "postmasters of the post towns in or nearest to such parishes in "Ireland" the expression "clerks of the unions within which such "parishes are included in Ireland" and as if instead of the word "postmasters" the words "clerks of the unions" had been used and inserted throughout those sections.

Power to make railway and works.

5. Subject to the provisions of this Act the Company may make and maintain in the lines 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 with such railway and may exercise the powers herein-after 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):

A railway ten miles four furlongs and twenty-four yards in length commencing by a junction with the terminus of the railway authorised by the Great Southern and Western Railway Act 1881 in the townland of Baltinglass West and parish of Baltinglass in the county of Wicklow and terminating in the townland of Tullowphelim in the parish of Tullowphelim and county of Carlow in a field at the north side of the public road called the Knockloe Road leading from the town of Tullow in the county of Carlow to the town of Shillelagh in the county of Wicklow at a point at the north fence of the said road one hundred and seventy-one yards or thereabouts measured in a westerly direction along the north side of the said road from the middle of the entrance-gate of the back avenue leading from the said road to the house known as Tullow Cottage in the townland of Tullowphelim in the parish of Tullowphelim and county of Carlow and now in the occupation of Doctor Henry Kidd.

Railways to form part of the railway of the Company.

6. The Company may demand and receive for and in respect of the railway by this Act authorised the same tolls and charges which they may now receive in respect of their existing undertaking and the railway shall in all respects be deemed part of the railway of the Company.

Notice to be given of taking by Company of houses of labouring classes.

7. The Company shall not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers make known their intention to take the same by placards handbills or other general notice placed in public view upon or within a reasonable distance from such houses and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Company to procure accommoda-

8. Before taking in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring

tion for persons of the labouring classes to be displaced.

classes as tenants or lodgers who may for the time being be occupiers of any house or part of any house which the Company are by this Act authorised to acquire the Company shall (unless they and such persons otherwise agree) procure sufficient accommodation elsewhere for such persons Provided always that if any question shall arise as to the sufficiency of such accommodation the same shall be determined by a justice. The Company may for the purpose of providing such accommodation appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase lands by agreement and may on any such lands erect labouring-class dwellings and may let or otherwise dispose of such lands or dwellings and may apply for the purposes of this section or any of them any moneys they are authorised to raise.

Power to raise debenture stock for purposes of Act.

9. The Company may create and issue debenture stock not exceeding in the whole eighty thousand pounds bearing interest at the rate of four pounds per centum per annum 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.

Power to apply corporate funds.

10. 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.

Application for moneys.

11. All moneys raised under this Act by debenture stock shall be applied only for the purposes of this Act and for the general purposes of the Company to which capital is properly applicable.

Lands for extraordinary purposes.

12. The quantity of land to be taken by the Company for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed three acres.

Period for compulsory purchase of lands.

13. 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.

Inclination of certain roads.

14. In altering for the purposes of this Act the road next herein-after mentioned the Company may make the same of any

inclinations not steeper than the inclinations herein-after mentioned in connexion therewith (that is to say) :—

No. on deposited Plan.	Parish.	Townland.	Description of Road.	Intended Inclination.
18 to 1	Rathvilly	Patrickswell / Rathvilly.	Public Road	1 in 14 on one side and level on the other side

Imposing penalty unless railway opened.

15. If the Company fail within the period limited 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 railway is completed and opened for public traffic or until the sum received in respect of such penalty amounts to five per cent. 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 Majesty's Treasury and in the same manner as the penalty provided in section three 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 specified 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 such railway by unforeseen accident or circumstances beyond their control provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

Providing for application of penalty in compensation to parties &c. injured.

16. 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 or any portion thereof or who have been subjected to injury or loss in consequence of the compnlsory powers of taking property conferred upon the Company by this Act and for

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which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the said Chancery Division may seem fit and if no such compensation is payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid has 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 Chancery Division thinks fit to order on the application of the solicitor to Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the said Chancery Division 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.

On expiration of time limited for completion of railway power to cease.

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

Baronies to guarantee interest for thirty-five years after opening of railway.

18. For and during the period of thirty-five years after the opening of the railway for public traffic the sum (if any) required together with the net profits to pay interest at the rate of four pounds per centum per annum on the sum of sixty thousand pounds but in no case to exceed the sum of twelve hundred pounds shall be paid half yearly by that portion of the barony of Rathvilly situate in the poor law unions of Carlow and Shillelagh that portion of the barony of Forth situate in the poor law union of Carlow and the townlands of Baunogephlure Farranaphlure Glenoge Grangeford Grangeford Old Inch Island or Moatalusha Moanalow Rathbaun Rathnashannagh and Slaneyquarter situate in the parish of Grangeford barony of Carlow and poor law union of Carlow all in the county of Carlow and the sum (if any) so required shall be raised by the same poundage rate to be struck and levied off all the area so charged according to the annual value thereof as valued under the Acts relating to the valuation of rateable property in Ireland.

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Application of profits after opening of railway and baronial guarantee on cost of railway.

19. If and whenever during the period of thirty-five years after the opening of the railway for public traffic the net profits of the railway (such net profits to be ascertained as by this Act directed) after deducting from the gross receipts the working expenses of the railway shall not amount to a sum equal to interest at the rate of four pounds per centum per annum upon the said sum of sixty thousand pounds the sum or amount required to make up such interest as aforesaid (but in no case to exceed the sum of twelve hundred pounds per annum) shall become payable half yearly by the portions of baronies mentioned in the last preceding section in the manner provided by this Act Provided always that the said net profits after deducting from the gross receipts the working expenses of the railway shall during the said period be applied to the payment of the said interest of four pounds per centum per annum on the said sum of sixty thousand pounds in priority to any other debt demand or claim or to any other purpose whatsoever.

Board of Trade may appoint auditors.

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

Account of receipts and expenditure to be rendered.

21. For the purpose of ascertaining the half-yearly sum to be paid by the said several portions of baronies and also for ascertaining the net profits of the railway (if any) applicable to the payment of interest 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 distinct and separate 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

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year respectively arising in any manner from the railway authorised by this Act 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 railway by this Act authorised and all accounts documents vouchers books and papers kept by the Company shall upon the request of the said auditor or auditors be from time to time produced to the said auditor or auditors for examination and the Company shall so long as the said barony contributions may continue keep proper and correct books of account to show the gross receipts and profits on the said railway and the expenditure thereof to which books of account the said auditor or auditors shall have at all reasonable times access and from which they may at all times take extracts and such auditor or auditors shall adjust and balance such accounts and as to all other matters relating to the said accounts 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 baronies.

22. The said auditor or auditors shall after the opening of the railway from time to time ascertain and determine the amount of net receipts respectively in each half year applicable to the payment of the said interest on the said sum of sixty thousand pounds as provided by this Act and shall also assess and determine the amount if any necessary to be paid and made up by the said several portions of baronies and 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 several portions of baronies.

Auditors to deliver certificate to the Company.

23. 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 Carlow 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.

24. 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 Carlow and such secretary shall lay such certificate or duplicate thereof before the grand jury of the said county at the assizes next after he shall have received the same and the said grand jury shall from time to time at such assizes and without any reference to presentment sessions present the sum mentioned in such certificate relating to the said several portions

of baronies to be raised and levied off such portions of 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 Company or in such other manner as the Company shall direct and if the said grand jury shall fail to present the sum or any part thereof contained in any such certificate relating to the said several portions of baronies the treasurer of the said county shall and he is hereby required to insert such sum or such omitted part thereof in his warrant for raising the moneys presented at the same assizes as if such sum had been duly presented by such grand jury to be raised in manner herein-before mentioned off the said several portions of baronies chargeable therewith as aforesaid and the same shall be raised and levied off the said several portions of baronies accordingly as if the same had been so presented and the said treasurer shall pay over the amount when by him received as hereinafter provided as if such money had been presented by such grand jury.

Condition of bonds by collectors of grand jury cess.

25. Every bond of a collector of grand jury cess within the said county of Carlow 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.

Persons liable to be rated may agree with Company for payment of gross or lump sum.

26. It shall be lawful for the Company to enter into an agreement with any person or persons liable to be rated or assessed for the purpose of the guarantee authorised by this Act for payment of a gross or lump sum in release and discharge of any rate or cess in respect of the said guarantee and thereupon the rate or cess applicable to the hereditaments so released or discharged in respect of any agreement to be made as aforesaid shall not be leviable anything contained in this Act to the contrary notwithstanding but the Company shall give credit for the amount of the cess or rate so released and extinguished in any payment due to them under the said guarantee.

Remuneration to collector to

27. The grand jury of the said county shall also present such sum of money to be levied off the said several portions of baronies

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be presented by grand jury.

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 baronies to be recompensed out of the profits of the railway.

28. If at any time it shall appear to the said auditor or auditors that the net profits of the Company in any year ending on the thirty-first day of October within ten years from any period at which any such payment by the said several portions of baronies 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 interest at the rate of five pounds per centum per annum on the said sum of sixty thousand pounds the said auditor or auditors shall and he is or they are hereby required forthwith to certify such fact by writing under his or their hand or hands stating the amount of any such surplus to the treasurer for the time being of the said county and thereupon the said treasurer shall be entitled to receive from the Company the said surplus to an extent not exceeding the aggregate amount of payments made by the said several portions of baronies since the passing of this Act and the said treasurer shall apply the sum so received by him in aid of the county cess upon the said several portions of baronies which shall have made such payment in such proportion as the aggregate amount which shall have been paid during the aforesaid period by each such portion of barony shall bear to the aggregate amount which shall have been paid during the same period by such portions of baronies aforesaid.

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

29. The auditor or auditors shall within one month after having certified as aforesaid to the treasurer of the county of Carlow deliver to the said treasurer a certificate in writing under his or their hand or hands stating what proportion of the said surplus the treasurer to whom the certificate is to be given is (by virtue of the last preceding enactment) entitled to receive and the said treasurer shall be entitled on demand to receive from the Company the amount mentioned in such certificate and in default of payment on demand to recover the same with full costs of suit by action of debt or on the case in any court of competent jurisdiction and in any such action the treasurer for the time being of the said county shall be the nominal plaintiff and as such entitled to sue on behalf of the county for which he may be the treasurer and no such proceeding shall abate or be discontinued by reason of the death or resignation of such treasurer but shall continue and proceed in the name of any treasurer from time to time appointed in the stead of any such treasurer who may die be removed from or resign his office upon entering a suggestion for that purpose by leave of the court in which any such proceeding may be pending.

Period at which liabilities of the baronies are to cease.

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

Tenants to deduct half cess from the rent.

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

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

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

Receipt for rate to be taken in discharge.

33. 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

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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 non-payment 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.

Interest not to be paid on calls paid up.

34. 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 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.

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

35. 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

Railways to be subject to general Acts.

36. Nothing herein contained shall be deemed or construed to exempt the railways of the 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 other 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.

37. All the costs charges and expenses of and attending the passing of this Act or incidental thereto shall be paid by the Company.

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