



CHAPTER xliii.

An Act to enable the Great Northern Railway Company (Ireland) to extend their Railway to Carrickmacross in the county of Monaghan and to Belturbet in the county of Cavan and for other purposes. [3rd June 1881.]

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WHEREAS the construction by the Great Northern Railway Company (Ireland) (who are herein-after called "the Company") of the branch railways herein-after described would contribute to public and local convenience and it is expedient that the powers herein-after contained should be conferred upon the Company for that purpose :

And whereas it is expedient that the time limited by the Great Northern Railway (Ireland) Act 1879 for the purchase by the Company of certain lands houses and buildings in the parish of Dundalk in the county of Louth referred to in the seventh section of the said Act should be extended :

42 & 43 Vict.
c. clxxxii.

And whereas the railway to Belturbet by this Act authorised (herein-after called the "Belturbet Branch") will be of great advantage to the barony of Lower Loughtee in the county of Cavan and the Company have agreed to construct the same on being guaranteed against loss to the extent herein-after mentioned by means of rates leviable within the said barony as herein-after provided :

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 has been submitted to the grand jury of the county of Cavan and to the presentment sessions for the barony of Lower Loughtee in the said county and to the Poor Law Guardians of the unions of Bawnboy and Cavan and has been approved by those several bodies :

And whereas it is expedient that the other provisions herein-after contained should be made :

And whereas plans and sections showing the lines and levels of the railways and works authorised by this Act and the lands

A.D. 1881. required or which may be taken for the purposes or under the powers of this Act and books of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the clerks of the peace for the counties of Monaghan Cavan and Louth and are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

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

Short title.

1. This Act may be cited as the *Great Northern Railway (Ireland) Act 1881.*

Incorporation of General Acts.

8 & 9 Vict. c. 18.

23 & 24 Vict. c. 106.

8 & 9 Vict. c. 20.

14 & 15 Vict. c. 70.

23 & 24 Vict. c. 97.

27 & 28 Vict. c. 71.

31 & 32 Vict. c. 70.

26 & 27 Vict. c. 92.

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

The Lands Clauses Consolidation Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 ;

The Railways Clauses Consolidation Act 1845 ;

The Railways Acts (Ireland) 1851 1860 and 1864 the Railways Traverse Act and

Parts I. and II. of the Railways Clauses Act 1863 relating respectively to construction of a railway and to extension of time.

Interpretation of terms.

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

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 the expression "clerks of the unions within which such parishes are included in Ireland" or the words "clerks of the unions" (as the case may be) had been used and inserted in such sections instead of the expression "the postmasters of the post towns in or nearest such parishes in Ireland" or instead of the word "postmasters" (as the case may be).

Power to make railways, &c.

5. 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 railways and works herein-

after described with all proper stations sidings 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 those purposes The railways and works herein-before referred to and authorised by this Act are :

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CARRICKMACROSS BRANCH.

A railway (6 miles 5 furlongs and 4 chains in length) wholly in the counties of Monaghan and Louth commencing in the townland of Inishkeen Glebe in the parish of Inishkeen in the county of Monaghan by a junction with that part of the Great Northern Railway (Ireland) which was heretofore the Irish North-Western Railway near and to the north-westward of the Inniskeen passenger station of that railway and terminating in a field in the occupation of Samuel Lewis in the townland of Drummond-Otra eastward of the new Roman Catholic Church in the town of Carrickmacross.

BELTURBET BRANCH.

A railway (4 miles and 6 chains in length) wholly in the parish of Annagh in the county of Cavan commencing by a junction with what was heretofore the Irish North-Western Railway in the townland of Drumbrawn at about 236 yards south-westward of the Belturbet Junction passenger station and terminating in the townland of Straheglin in a field in the occupation of Thomas Clarke near the Belturbet Male National School-house.

6. The railways and works hereby authorised shall for all purposes (including the levying of tolls fares rates and charges) be deemed to be part of the railways of the Company and the Company may in respect of the said railways demand and take any tolls rates fares and charges not exceeding those which by the 22nd section of the Great Northern Railway (Ireland) Act 1877 they are authorised to demand and take upon or in respect of their railways.

Railways to form part of railways of the Company.

40 & 41 Vict. c. lxx.

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

Period for completion of Railways.

8. If the Company fail within the period limited by this Act to complete the railways which they are herein-before authorised to construct 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 in respect of which such default has been made

Penalty unless railways are opened within the time limited.

A.D. 1881. is completed and opened for public traffic or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of such railway 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 3 of the
17 & 18 Vict. Railway and Canal Traffic Act 1854 and every sum of money
c. 31. 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 High Court of Justice in Ireland (Chancery Division) in the bank and to the credit 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 line by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application
of penalty.

9. 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 may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway in respect of which default has been made 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 with reference to such railway 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 said Chancery Division may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the said Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated

Fund of the United Kingdom or in the discretion of the said 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.

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10. 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 the construction of the Carrickmacross Branch Railway carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the public road numbered on the deposited plans 10 in the townland of Annacroff in the parish of Killanny in the county of Monaghan.

Power to
cross road on
the level in
the townland
of Annacroff.

11. In altering for the purposes of this Act the roads next herein-after mentioned the Company may make the same of any inclinations not steeper than the inclinations herein-after mentioned in connection therewith respectively (that is to say):

Inclination
of roads.

No. on Deposited Plan.	Parish.	Townland.	Description of Road.	Intended Inclination.
CARRICKMACROSS BRANCH.				
10	Inishkeen	- Edenamo	- Mail-car road	1 in 20.
26	Killanny	- Garlegobban	- Do.	1 in 20.
2	Magheross	- Trostan	- Do.	1 in 20.

12. The Company may make the arches of the bridges for carrying the Carrickmacross Branch Railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connection therewith respectively (that is to say):

Height and
span of
bridges.

No. on Deposited Plan.	Parish.	Townland.	Description of Road.	Height.	Span.
1	Donaghmoyne	Coolderry	Mail-car road	15 feet	25 feet.
26 } 2 }	Killanny	{ Kinallyduff Annacroff	{ Public	10 feet	12 feet.

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Width of
 certain
 roadways.

13. The Company may make the roadway over the bridges by which the following roads will be carried over the Carrickmacross Branch Railway of such width between the fences thereof as the Company think fit not being less than the respective widths hereinafter mentioned in connection therewith respectively (that is to say) :

No. on Plan.	Parish.	Townland.	Description of Roadway.	Width of Roadway.
10	Inishkeen -	Edenamo -	Mail-car road -	25 feet.
26	Killanny -	Garlegobban	Do. -	Do.
2	Magheross -	Trostan -	Do. -	Do.

Land for
 extra-
 ordinary
 purposes.

14. The quantity of land to be taken by the Company under the powers of this Act by agreement in connection with their undertaking for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed five acres.

Period for
 compulsory
 purchase of
 lands.

15. 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
 take ease-
 ments, &c.
 by agree-
 ment.

16. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the last-mentioned Acts with respect to lands and rent-charges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Limited
 owners of
 land may
 grant same
 free of costs
 to the Com-
 pany with
 consent of
 Commis-
 sioners of
 Public
 Works.

17. It shall be lawful for any limited owner of land which the Company are authorised to take for the purposes of the railway or works which they are authorised by this Act to construct to grant transfer or convey the same or any portion thereof to the Company free of cost Provided always that no such grant transfer or conveyance by a limited owner under this section shall be made until a certificate approving thereof shall have been granted by an inspecting engineer or engineers or other person or persons to be for such purpose nominated and appointed by the Commissioners of Public Works in Ireland who are hereby authorised on the application of any such limited owner or of the Company to make such

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appointment and the costs relating to such nomination and appointment inspection and certificate shall be paid by the Company as the Commissioners shall direct.

The term "limited owner" in this section shall mean any person or persons by whom the powers of sale conferred by section seven of the Lands Clauses Consolidation Act 1845 may under the authority of the said section be lawfully exercised and any grant transfer or conveyance made by a limited owner under the provisions of this section shall have the same effect as a sale and conveyance or release made by a party having a limited interest under the said seventh section.

18. The powers granted to the Company by the Great Northern Railway (Ireland) Act 1879 for the compulsory purchase of certain lands in the townland of Marshes Lower in the Parish of Dundalk in the county of Louth and certain lands on the east side of the railway of the Company between Barrack Street and Windmill Road including therein certain houses and buildings on the south side of Barrack Street which lands are referred to in the 7th section of the said Act are hereby extended from the twenty-fourth day of July 1882 and may be exercised by the Company until the twenty-fourth day of July one thousand eight hundred and eighty-four.

Extension of time for purchase of certain lands at Dundalk.]

19. The Company may apply to the purposes of this Act any of the moneys which they now have in their hands or which they have power to raise by virtue of any Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power to apply corporate funds to purposes of Act.

20. With respect to the guarantee by the barony of Lower Loughtee to make good any deficiency as herein-after defined and limited of interest or dividends on the capital to be expended by the Company on the Belturbet Branch be it enacted as follows :

Guarantee by Barony of Lower Loughtee.

(1.) For the purposes of this section "capital" means the money expended on and about the construction of the Belturbet Branch together with interest upon the same calculated at the rate of four per centum per annum on the sums from time to time so expended until the opening of the railway for the conveyance of traffic :

Capital of Belturbet Branch defined.

(2.) The Company shall until the determination of the liability to contribute in accordance with this section keep separate accounts with reference to the Belturbet Branch :

Separate accounts to be kept.

(3.) There shall be credited to the said account the gross earnings of the Company from the Belturbet Branch :

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Guarantee
defined.

Arbitrator
to ascertain
total amount
to be paid by
the Barony.

Accounts to
be rendered
by the Com-
pany.

Duties of
arbitrator.

(4.) When the said gross earnings are insufficient in any half year to pay the working expenses of the said branch and the cost of maintenance and renewals thereof together with interest at the rate of four per centum per annum on the capital (but such interest not to exceed one thousand two hundred pounds per annum) the barony shall make good the deficiency in manner herein-after mentioned: Provided that nothing in this Act contained shall require the barony to contribute in any one year for the purposes of this Act a sum exceeding three hundred and forty pounds:

(5.) For the purpose of ascertaining what sums of money (if any) the barony is to contribute for the purposes aforesaid the Company and the grand jury for the county of Cavan upon the request of the Company shall from time to time appoint by writing (as regards the said grand jury under the hand of their secretary for the time being) some person to act as arbitrator and in default of such joint appointment the Board of Trade upon the request of either party shall appoint some person to act as such arbitrator and such arbitrator if appointed by the Company and grand jury shall continue to act as such arbitrator until his appointment be revoked either by the Company or the grand jury and if appointed by the Board of Trade shall continue to act as such arbitrator until his appointment be revoked by the Board of Trade. The Board shall at any time revoke such appointment at the request in writing of the Company and the grand jury such request as regards the grand jury being under the hand of their secretary for the time being:

(6.) The Company shall from time to time as soon as conveniently may be after the thirty-first day of December and the thirtieth day of June in every year after the opening of the Belturbet Branch for the conveyance of traffic render to the arbitrator the accounts herein-before provided for in such form and containing such particulars and verified by such vouchers as such arbitrator may reasonably require:

(7.) The arbitrator shall from time to time ascertain and determine for each half year ending on the thirtieth day of June and the thirty-first day of December after the opening of the Belturbet Branch for the conveyance of traffic the amount of such deficiency (if any) as aforesaid and the total amount required to be contributed by the barony in order to supply such deficiency. And the amount required for that purpose determined as aforesaid but not exceeding in any year three hundred and forty

pounds shall be set forth in a certificate in writing of which two copies shall be signed by such arbitrator Provided that if the Belturbet Branch shall be opened for traffic on any other day than the thirtieth day of June or the thirty-first day of December the first account shall include the period between the opening and either of those days which shall first happen as well as the succeeding half year :

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(8.) As soon as conveniently may be after the making of such certificate the arbitrator shall cause one copy thereof to be delivered to the Company and the Company shall thereupon pay to such arbitrator his costs and expenses and any remuneration for his trouble in regard thereto either as shall be agreed upon if the arbitrator is appointed by the Company and the grand jury or as the Board of Trade shall order and direct if such arbitrator is appointed by the Board of Trade and such payment shall be deemed part of the working expenses of the Belturbet branch He shall also cause one copy thereof to be delivered to the secretary of the grand jury for the county of Cavan And every such certificate immediately after the delivery thereof to such secretary shall be in all respects final and binding And subject to the provisions of this Act all lands and hereditaments or premises and all other property liable to grand jury cess within the barony shall be and the same are hereby charged and made chargeable according to their rateable value for the time being with the payment of the amount specified in such certificate :

Delivery and
effect of
certificates.

(9.) The secretary of the grand jury shall lay the certificate delivered to him as aforesaid or a copy thereof before the said grand jury at the assizes next after he shall have received the same and the grand jury are hereby empowered and required from time to time and without application to presentment sessions to present the sum mentioned in such certificate to be raised and levied off the barony and the same sum shall be apportioned and raised and levied from and off the barony in like manner as any presentment made under the authority of an Act passed in the sixth and seventh years of the reign of his late Majesty King William IV. chapter 116 and the Acts amending the same and together with and as part of the presentments made at such assizes And the banking company acting as treasurer of the said county shall out of the first moneys remaining in their hands after repayment of Government advances gaol expenses and salaries of public officers payable by them pay the sum so presented by the grand jury to the secretary of the Company or in such other manner as

Contribu-
tions to be
paid to Com-
pany.

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the Company shall direct and if the grand jury shall fail to present the sum specified in the certificate so laid before them or any part of such sum the secretary of the said grand jury shall and he is hereby required to insert such sum or such portion thereof as may be omitted in his warrant for raising the moneys presented at the same assizes as if such sum had been duly presented by the grand jury to be raised in manner herein-before mentioned and the amount so inserted shall be apportioned raised and levied on and off the rateable district as if the same had been duly presented and the amounts so raised and levied shall be paid to the Company or in such other manner as the Company shall direct :

Application
of contribu-
tions.

(10.) All moneys paid to or on behalf of the Company under this section shall be treated by the Company as revenue arising from their undertaking :

Cessation of
guarantee.

(11.) All liability of the barony to subsequent contribution and of the said secretary with respect thereto under this section shall absolutely cease and determine in either of the following contingencies whichever shall first happen :

(a.) If for six consecutive half-years the receipts arising from the Belturbet Branch shall have sufficed to pay the expenses of working costs of maintenance and renewals and interest on the capital at the rate of four pounds per centum per annum such interest not to exceed one thousand two hundred pounds per annum ; or

(b.) Upon the expiration of thirty-five years from the opening of the Belturbet Branch

but such determination shall not prevent the Company from receiving in accordance with this section the amount of any contribution then due.

Tenants may
deduct half
the cess from
the rent.

21. When any person occupying any lands tenements or hereditaments in the said barony who has paid any county cess under the foregoing provisions of this Act shall be liable to pay rent in respect of such lands tenements or hereditaments he may deduct from such rent for each pound of the rent which he shall be liable so to pay one half of the sum which he shall have paid as county cess under the provisions of this Act in respect of each pound of the net annual value of such lands tenements or hereditaments 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 lands tenements or hereditaments a larger sum than one half of the amount of the county cess that has been paid by him in respect of the same under

the provisions of this Act and Provided also that no deduction shall be made from tithe rentcharge or other composition in lieu of tithes for or on account of any such county cess so paid as aforesaid.

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22. Whenever the net annual value of all the lands tenements or hereditaments situate in the said barony occupied by any person under any tenancy does not exceed four pounds so valued under the Acts relating to the valuation of rateable property in Ireland and any grand jury cess is under the provisions of this Act leviable in respect of the said lands tenements and hereditaments then the following provisions shall apply :

In case of premises valued at and under four pounds immediate lessors to pay county cess.

(1.) Such cess shall after the passing of this Act be paid and payable by the immediate lessor or lessors of such person and may be recovered from such immediate lessor or lessors in like manner as but for the provision of this section it might have been recovered from the person occupying such lands tenements or hereditaments.

(2.) If any such cess payable by any such immediate lessor be not paid within four months after the same has become due the person duly authorised to collect the same may give notice in writing to the occupier for the time being of such lands tenements or hereditaments to pay the cess due in respect of the same and after the expiration of one calendar month from the time of giving such notice it shall be lawful to recover such cess from such occupier or on his default from any subsequent occupier of the said lands tenements or hereditaments in like manner as if the same were cess due in respect of lands tenements and hereditaments of a net annual value greater than four pounds.

(3.) Every such occupier so paying such cess may deduct from the rent he may be then or next thereafter liable to pay in respect of such lands tenements or hereditaments the whole of any such cess that he may have paid in respect of the same and if rent sufficient to cover such cess be not then or do not thereafter become due from such occupier in respect thereof he shall be entitled to recover the same from such immediate lessor by civil bill.

23. When any moneys may be deducted on account of any county cess paid under the provisions of this Act from any rent payable to any person in respect of any lands tenements or hereditaments and such person shall also pay a rent in respect of such lands tenements or hereditaments he shall be entitled to deduct from the rent payable by him a sum bearing such a proportion to the amount of county cess deducted as aforesaid from the rent payable to him as the rent payable by him bears to the rent payable to him not

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

A.D. 1881. exceeding the half of the said county cess payable by him. Provided always that no lessee or other person paying any county cess under this Act in respect of any lands hereditaments or premises held by him for lives renewable for ever or for the residue of any term of years which when originally created shall have been not less than nine hundred years shall deduct any portion of such county cess from the rent payable by him in respect of such lands hereditaments or premises and Provided also that no deduction in respect of county cess paid under the provisions of this Act 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.

Receipt for rates to be taken in discharge.

24. In all cases a receipt for the county cess to be levied under the authority of this Act in respect of any lands hereditaments or premises 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 county cess for which such receipt shall be given. Provided always that no deduction on account of any payment of county cess under this Act shall be held to be a discharge of any portion of any 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 lands hereditaments or premises by ejectment for non-payment of rent thereof in any case where the remaining portion of such rent shall be unpaid but it shall be lawful for such landlord to proceed for the recovery of such lands hereditaments or premises by ejectment as effectually as if the entire payment of rent out of which such deduction is hereby allowed had remained wholly due and unpaid.

Provision as to general railway Acts.

25. Nothing in this Act contained shall exempt the Company or 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 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.

Expenses of Act.

26. 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.