

II.—*Some Notes upon Light Railways and Tramway Guarantees in Ireland under the Tramways and Public Companies' Act, 1883, 46-47 Vic. chap. 43, and Suggestions for a Different and Improved System of Guarantee.* By Fletcher Moore, Esq.

[Read Wednesday, 4th February, 1891.]

In the year 1860 it was considered to be of great public benefit that tramways should be constructed in Ireland, and accordingly an act of Parliament was passed—23 & 24 Vic. chap. 152, whereby (instead of an expensive private act of Parliament being required for each tramway), a presentment might be obtained from the grand jury of the county wherein the tramway was to be constructed, and that presentment having been duly confirmed by an order of the Lord Lieutenant in Council, became equal in force and validity to an Act of Parliament, and the tramway could be constructed in accordance with its provisions. This act was further amended in the following year, but as those acts only authorized tramways working with horses, they did not effect the anticipated object of tramway extension in Ireland. Ten years having elapsed—in the year 1871—a further great step was taken, and steam or other mechanical power was authorised to be used on tramways, under the 34 & 35 Vic. chap. 114, but the speed being limited to six miles an hour, it was not yet sufficient to satisfy modern ideas, and the act remained in abeyance for just another ten years, when in 1881, the 44 & 45 Vic. chap. 17 was passed, which allowed a speed up to ten miles an hour; this would have given a great impetus to tramway construction, only, unfortunately, troublesome times had come upon Ireland, the Land Commission had set to work to cut down rents, and capitalists feared to enter upon any work.

In 1883 another fresh start took place, owing to the passing of the 46 & 47 Vic. chap. 43, now popularly known as the "Tramway Guarantee Act." By section 1 of that act, the grand jury of any county was authorised to give a guarantee, chargeable upon any barony (which includes part of a barony), that dividends would be paid upon the capital as paid-up of any tramway (which includes a light railway), but not exceeding the rate of 5 per cent. thereon.

By a later section (9) of the same act, it was provided that when any barony, as before mentioned, in any half-year after the opening of such tramway for traffic, should have paid any sum on foot of such guarantee, the treasury would then recoup to the barony a sum not exceeding half the amount so paid by the barony, provided such payment by the treasury should not exceed 2 per cent. upon the paid-up guaranteed capital.

By the 5th section of the same act, it was provided that when the tramway came to earn more than enough to pay its own dividends, it should then repay by degrees to the barony and to the treasury all the monies so advanced by them to pay the dividends of the tramway in its infancy.

Now, apparently, the working of this act would be simple and

easy, but when tried in practice, many serious objections and flaws appear, some of which may be enumerated as follows:—

1st. It is costly in the working, for the whole amount required has to be levied, in the first instance, off the barony, before any treasury payment begins.

2nd. In the present state of financial affairs in Ireland, a 4 per cent. baronial guarantee cannot easily be put on the money market at par, whilst even a 5 per cent. guarantee commands but a slight premium; thus the construction of guaranteed railways or tramways under this act has been greatly hampered and made more costly, owing to the difficulty of financing the shares prior to the opening of the line for traffic.

3rd. The dates of the meetings of the grand juries throughout Ireland not happening at even periods of six months apart (in Dublin county there is only one presenting term—viz., April each year),—the presentments and consequent payments for these guaranteed dividends to the tramway companies and their shareholders must be irregular. Thus, take it that the half-year of the tramway, *quoad* the accounts being closed and dividends declared, ended—say upon the 31st December,—then the presentment for such dividends could be made by the grand jury at the following spring assizes, but the levy having then to be made, the payment to the tramway company for their shareholders could not be made till the summer assizes, that is, six months after the dividend was due according to the balance sheet of the company. But take the half-year as ending the 30th June, then by using great diligence, it might be possible to obtain from the grand jury at the summer assizes—that is in the month of July,—the presentment to levy the money, and then the payment would be made by the grand jury in the following spring assizes, that is, nine months after the dividends were due, whilst if the summer assizes had been missed, the presentment to levy would only take place at the following spring assizes, and the payment would not be obtained until the summer assizes following, that is, over twelve months after the dividends were due, whilst in the case of a guaranteed tramway in the county of Dublin, where the presenting term is only in April, the dividends might be due for twelve to eighteen months before they were paid by the grand jury to the tramway company for their shareholders.

4th. The barony having thus paid over to the tramway company the money for the guaranteed dividends, has then to apply to the treasury to be recouped the moiety or proportion of the money they have paid, and before there is time to have received that moiety in aid from the treasury, the barony has a fresh presentment made upon it for a further half-yearly dividend, and a fresh levy has to be made upon the ratepayers, so that the treasury contribution to the dividends of any one half-year does not actually become available to reduce the demand upon the barony, until nearly a year after the barony has paid over the amount to the tramway company, and part of that time it remains idle in the hands of the grand jury, available neither to reduce the rates, nor to pay the over-due dividends to the shareholders of the tramway.

5th. It is to be remembered that this guarantee is given by the barony and treasury in perpetuity, and in many of the guarantees under this act, the liability is likely to last for many years, and the chance of repayment to the barony or treasury out of the surplus earnings of the tramway under section 5, is certainly rather remote.

Now, let us consider how it would be if instead of the barony giving a 4 or 5 per cent. guarantee, and having half of this repaid to it by the treasury, the operation were reversed, and the treasury were to give a direct 3 per cent. guarantee, half of which should be recouped to it by the barony: it is manifest

1st. There would be a great saving—

(a) To the barony, as it would gain on a 4 per cent. guarantee a half per cent., and on a 5 per cent. guarantee from 1 to $1\frac{1}{2}$ per cent., according as the tramway might contribute to the dividends.

(b) To the treasury, as it would gain one-half per cent. in every case.

2nd. The government 3 per cent. guaranteed shares would be worth in the market par or over, and would thus facilitate the financing, and so save capital for the construction of the line, a most important point in constructing light railways or tramways in Ireland.

3rd. The dividends could be more punctually paid, and capital thus more easily got out for future lines, whilst in existing lines, if this scheme were applied to them, the shareholders would most probably be very willing to exchange their baronial guaranteed shares for those of the government—as the value of their shares would thereby be enhanced—or if they did not, a plan of paying the objecting shareholders off in cash, might be easily added.

4th. By thus reducing the interest on the share capital, manifestly the chance of the tramway paying the dividends out of its own earnings, and thus not calling upon the guarantee at all, would be increased, and, further, the time when the tramway, out of its surplus earnings, should commence to repay the barony and the treasury the moneys so advanced for the dividends, would be brought into the nearer future, thus in many cases of Irish tramways, reducing what is now nearly an impossibility into a reasonable probability.

5th. Further, the treasury by using their half per cent. saving as a sinking fund, could thus addeem their liability on the guarantee, which, as it stands at present, in most cases is likely to prove perpetual, and by making it a condition that the barony also should use at least part of its saving as a sinking fund, the barony liability could also be terminated in a reasonable time.

To reduce this to figures and make it plainer: take, say, the guaranteed capital of the tramway at £40,000, and the guaranteed rate at 5 per cent.; now, if the tramway be taken as not contributing anything at all out of earnings, and the whole guarantee is called upon, there has, in the first instance, to be levied off the ratepayers, the sum of £1,000 for each half-year, plus, of course, the cost of collection, which may be put down at 9d. in the £1 = to £37 10s. This amount having been levied, and paid over to the tramway company for distribution to its shareholders, sometime afterwards the

barony will be recouped by the treasury two-fifths of this amount, that is, £400. But if the method herein suggested had been adopted, and the treasury gave, in the first place, the 3 per cent. guarantee, a sum of £600 only would have to be paid by the treasury, of which it would be afterwards recouped one-half by the barony, that is, £300. Thus the treasury would save £100 each half-year (paying £600, and being recouped £300, thus paying only £300 instead of £400), whilst the barony would actually save £300 (paying only £300 instead of paying £1,000, and being recouped £400 of it); or taking the guarantee at the rate of 4 per cent., the reduction each half-year would be as from £800 to £600, or a saving of £100 respectively to the barony and the treasury.

It will be seen that the treasury would benefit, and through it the public at large. The barony and its ratepayers would gain. Both treasury and barony would get rid of a perpetual liability. The guaranteed shareholders would gain by the regularity of payment of their dividends, and the enhanced value of their shares. The tramway company would have the vista in the future of being able by paying off the treasury and the barony, to get back the shares so kept in pawn, as it were, by their creditors, and would then be in a better position to give further facilities to the public, by giving increased accommodation, or reducing rates.

Finally to sum up, my suggestions are briefly as follows:—

Let the treasury offer to any proposed future, and to the guaranteed shareholders of any existing tramway or light railway, under the act of 1883, instead of the present baronial guaranteed shares, 3 per cent. government shares, at par for 4 per cent. guaranteed, and at an increased quantity value, for the 5 per cent. guaranteed, taking the average value of those shares during say the year 1890, and these shares might be declared not addeemable say for ten years, and then at a small premium, say of 5 per cent.

The barony should enter into an arrangement to recoup the treasury one-half of each payment made. It may be said that the treasury would run a risk of the barony not recouping it, but at present the treasury contributes to the county rates, by giving over the probate duties, and this could be retained by the treasury in case of any default.

The treasury and the barony should each make a sinking fund of say one-half per cent., for the purpose of addeeming such guaranteed shares. The shares so addeemed should be held by the barony or the treasury as a safeguard in case the tramway should cease working, and as a security for the repayment by the tramway out of its surplus earnings, of all sums advanced to it by the barony or the treasury for the payment of its guaranteed dividends.

As soon as the tramway should have repaid say one-fourth of the amount it might owe to the barony or the treasury, as the case might be, it should be entitled to receive back a proportionate part of the shares so held by the barony or treasury, and should be entitled to issue such shares (as preference, but unguaranteed), as might be required for the improvement of the line, or for affording additional facilities or accommodation to the public.

There are several minor points, which though outside of the method of guarantee, still affect the tramways and their shareholders and the ratepayers, and may, therefore, be shortly mentioned. A large increase in the rateable value of a district arises by the construction of a tramway, not only from external sources, but from the actual railway or tramway line itself and its earnings, together with its houses, depôts, stations, etc., being valued for rating purposes, such as for poor-rate, county cess, the tramway guarantee rate (the tramway thus paying towards its own guarantee), and last, though not least, for income tax; these rates have, in the first instance, to be paid by the tramway company, but are actually and really paid out of the guarantee, and so fall on those who pay the guarantee-rate. When the guaranteeing district is conterminous with the poor-rate and the county cess district, it, of course, does not matter much; but when these are not conterminous, as is generally the case, it is very hard that those who pay the guarantee, should have to pay on property which was created by their guarantee, whilst much of this increased rate goes off to another district which gave no guarantee, and pays nothing to it, whilst the income tax is collected not only on the enhanced rateable value, but as it has to be deducted from the shareholders, and paid over to the income tax collector, it is thus actually paid by the ratepayers who pay the guarantee, and thus often paid twice over.

It might be reasonably asked, therefore, in the interest of the ratepayers, that the line itself, its depôts, stations, etc., might be free from taxation so long as the tramway was calling upon the guarantee in aid.

The annexed list of tramways and light railways, under the Act of 1883, is taken from the latest, "The Fifty-eighth Annual Report of the Commissioners of Public Works, Ireland, for the year 1889-90."

III.—"*The Registration of Assurances Bill.*" By Joseph Maguire, B.L.

[Read Tuesday, 24th February, 1891.]

"THE Registration of Assurances Bill" of the Attorney-General, Mr. Madden, is the complement of his "Registration of Titles Bill"; combined they cover the entire field of land transfer in Ireland. Last session an able paper on the latter of these bills was read by Mr. Lawson, B.L. and discussed by the society. It seems desirable, however, that a subject of primary importance, like land transfer should be viewed by the society in its totality. This paper, then, is intended to place before the society, that portion of the land transfer proposals of the Attorney-General which is outside the scope of the able paper referred to.

"The Registration of Assurances Bill" is a large and comprehensive measure, aiming at the consolidation of the statutes, and involving important changes in the law and practice of deeds registration in Ireland. Like its companion measure it is framed on a