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An Act for making a railway from the Great Southern and Western Railway in the parish of Fermoy in the county of Cork to Lismore in the county of Waterford; and for other purposes. [24th June 1869.] A.D. 1869.

WHEREAS the making of a railway from the Great Southern and Western Railway in the parish of Fermoy in the county of Cork to Lismore in the county of Waterford would be attended with great local and public advantage:

And whereas the persons herein-after named, with others, are willing at their own expense to construct the railway; but the purposes aforesaid cannot be effected without the authority of Parliament:

And whereas plans and sections showing the lines and levels of the proposed railway, and the lands which may be taken for the purposes thereof, and a book of reference to those plans, have been deposited with the clerk of the peace for the county of Cork at his office in the city of Cork, and with the clerk of the peace for the county of Waterford at his office in the city of Waterford; and such plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference:

And whereas it is expedient that the Great Southern and Western Railway Company should be authorized to enter into the arrangements herein-after contained with respect to the working, use, management, and maintenance of the said Railway; and that provision should be made for securing the convenient interchange, accommodation, and transmission of traffic between the company by this Act authorized to be incorporated on the one hand and the Great Southern and Western Railway Company on the other hand:

And whereas the objects 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

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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 for all purposes as "The Fermoy and Lismore Railway Act, 1869."

Incorporation of general Acts herein named.

2. "The Companies Clauses Consolidation Act, 1845," "The Railways Clauses Consolidation Act, 1845," "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," "The Lands Clauses Consolidation Act, 1845," so far as it is consistent with "The Railways Act (Ireland), 1851," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and part one (relating to the construction of a railway) and part three (relating to working agreements) of "The Railways Clauses Act, 1863," and part one and part three of "The Companies Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated by this Act; the expressions "the railway" and "the undertaking" mean respectively the railway and undertaking by this Act authorized.

As to deposit of plans with clerks of unions.

4. Whereas by "The Railways Clauses Consolidation Act, 1845," it is provided that certificates of any omissions, mis-statements, or erroneous descriptions in certain plans and books of reference therein referred to should be deposited with the postmasters of the post towns in or nearest to the several parishes in Ireland in which the lands affected thereby should be situated, and it is also provided that certain plans and sections of such alterations in the original plans and sections as shall have been approved of by Parliament should also be deposited with such postmasters, and be retained and produced by them for inspection, in manner therein mentioned: And whereas, in compliance with the present standing orders of both Houses of Parliament, the several plans, sections, and other documents heretofore required to be deposited with the postmasters of the post towns in Ireland are now deposited with the clerks of the unions instead of such postmasters: Therefore, with reference to this Act, all the provisions of "The Railways Clauses Consolidation Act, 1845," relating to the matters aforesaid, shall be read and construed as if the expression "clerks of the unions within which such parishes

are included in Ireland," or the words "clerk of the union," as the case may be, had been used and inserted in such Act in lieu of the expression "the postmaster of the post towns in or nearest to such parishes in Ireland," or in lieu of the word "postmaster," as the case may be.

Company incorporated.

5. The Most Noble William Duke of Devonshire, Lord Frederick Charles Cavendish, William Currey, Francis Edmond Currey, James Ramsden, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railway, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Fermoy and Lismore Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railway according to deposited plans.

6. Subject to the provisions of this Act, the company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The railway herein-before referred to and authorized by this Act is—

A railway fifteen miles two furlongs and four chains in length, commencing by a junction with the Great Southern and Western Railway at Fermoy in the county of Cork, and terminating in the parish of Lismore and Mocollop in the county of Waterford.

Capital.

7. The capital of the company shall be one hundred thousand pounds in ten thousand shares of ten pounds each.

Shares not to issue until one fifth part paid up.

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

Calls.

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

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Power to borrow on mortgage.

10. The company may from time to time borrow on mortgage any sum not exceeding in the whole thirty-three thousand three hundred pounds; but no part thereof shall be borrowed until the whole capital of one hundred thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the company have proved to the justice who is to certify, under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

11. The mortgagees of the company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages, by the appointment of a receiver; and in order to authorize the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than three thousand five hundred pounds in the whole.

Application of monies.

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

First ordinary meeting.

13. The first ordinary meeting of the company shall be held within six months after the passing of this Act.

Quorum of general meetings.

14. In order to form a quorum for a general meeting of the company there shall be present personally or by proxy three shareholders holding in the aggregate not less than one twentieth of the capital of the company.

Number of directors.

15. The number of directors shall be five; but the company may from time to time reduce the number, provided that the number be not at any time less than three.

Qualification of directors.

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

Quorum.

17. The quorum of a meeting of directors shall be three, but if the number of directors be reduced to three the quorum shall be two.

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First directors.

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

Election of directors.

Lands for extraordinary purposes.

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

Powers for compulsory purchases limited.

20. 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.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

21. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of four thousand eight hundred and eleven pounds, being five per cent. upon the amount of the estimate in respect of the railway authorized by this Act, has been deposited with the Court of Chancery in Ireland in respect of the application to Parliament for this Act: Be it enacted, That, notwithstanding anything contained in the said recited Act, the said sum of four thousand eight hundred and eleven pounds so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the said company shall previously to the expiration of the period limited by this Act for completion of the railway hereby authorized to be made either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Lords of the Committee of Her Majesty's Privy

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Council for Trade and Foreign Plantations that the said company have paid up one half of the amount of the capital by this Act authorized to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the said company shall either have opened the said railway for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Lords of the said Committee, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Lords of the said Committee that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

22. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the "Dublin Gazette," shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Chancery in Ireland may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons or the majority of the persons named in such warrant or order as aforesaid, or the survivor or survivors of them; provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the person or persons or the majority of the persons named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

23. The railway shall be completed within five years from the passing of this Act, and if the railway shall not be completed within

that period, then on the expiration thereof the powers by this Act granted to the company for making and completing the railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Tolls for passengers and animals.

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

In respect of passengers and animals conveyed on the railway:

For every person, per mile, twopence; and if conveyed in or upon any carriage belonging to the company an additional sum per mile of one penny:

For every horse, mule, ass, or other beast of draught or burden, per mile, fourpence; and if conveyed in or upon any carriage belonging to the company, an additional sum of one penny per mile:

For every ox, cow, bull, or head of neat cattle, per mile, twopence; and if conveyed in or upon any carriage belonging to the company, an additional sum per mile of one penny:

For every calf or pig, sheep, lamb, or other small animal, per mile, one penny; and if conveyed in or upon any carriage belonging to the company, an additional sum per mile of one halfpenny:

Tolls for goods.

In respect of goods conveyed on the railway:

For all dung, compost, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, and for all coals, per ton per mile, one penny; and if conveyed in carriages belonging to the company an additional sum per ton per mile of one halfpenny:

For all coke, culm, charcoal, and cinders, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, sand, ironstone and iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron and iron castings not manufactured into utensils, or other articles of merchandise, per ton per mile, twopence; and if conveyed in carriages belonging to the company, an additional sum per ton per mile of one halfpenny:

For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile, twopence halfpenny; and if conveyed in carriages belonging to the company an additional sum per ton per mile of one halfpenny:

For all cotton, flax, yarns, and wools, drugs (except vitriol), manufactured goods, and all other wares, merchandise, fish,

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articles, matters, or things, per ton per mile, threepence; and if conveyed in carriages belonging to the company an additional sum per ton per mile of one penny:

For every carriage, of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform not belonging to the company, not exceeding fivepence per mile, and a like sum of one penny halfpenny per mile for every additional quarter of a ton or fractional part of a quarter of a ton which any such carriage may weigh; and if any such carriage be conveyed on a truck or platform belonging to the company, an additional sum per mile not exceeding twopence.

Tolls for propelling power.

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

Regulations as to tolls.

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

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

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

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

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

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

Tolls for small parcels and single articles of great weight.

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

For the carriage of small parcels on the railway:

For the carriage on the railway or any part thereof of any parcel not exceeding seven pounds in weight, threepence:

For the carriage of any parcel exceeding seven pounds, but not exceeding fourteen pounds in weight, fivepence:

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

For the carriage of any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight, ninepence:

And for the carriage of any parcel exceeding fifty-six pounds in weight the company may demand any sum which they think fit:

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

For the carriage of single articles of great weight:

For the carriage of any boiler, cylinder, or single piece of machinery, or single piece of timber, or other single article, the weight of which, including the carriage, shall exceed four tons but shall not exceed ten tons, the company may demand any sum not exceeding one shilling per ton per mile:

For the carriage of any boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which exceeds ten tons, the company may demand any sum they may think fit.

Maximum rates for passengers.

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

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

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

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

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Maximum rates for animals and goods.

29. The maximum rate of charge to be made by the company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance, (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the company,) shall not exceed the following sums; (that is to say,)—

For every horse, mule, ass, or other beast of draught or burden, fourpence per mile:

For every ox, cow, bull, or head of neat cattle, twopence halfpenny per mile:

For every calf or pig, one penny per mile:

For every sheep, lamb, or other small animal, three farthings per mile:

For every carriage, sixpence per mile:

For manure, and other articles herein-before classed therewith, one penny halfpenny per ton per mile:

For coke, and other articles herein-before classed therewith, twopence halfpenny per ton per mile:

For sugar, and other articles herein-before classed therewith, threepence halfpenny per ton per mile:

For cotton, and other goods and articles herein-before classed therewith, fivepence per ton per mile.

Passengers luggage.

30. Every passenger travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty-pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal station.

31. No station shall be considered a terminal station in regard to any goods conveyed on the railway which have not been received thereat or therefrom direct from the consignor of such goods, or are not directed to be delivered thereat to the consignee.

Restrictions as to charges not to apply to special trains.

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

Company may take increased charges by agreement.

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

Power to enter into traffic arrangements with Great Southern and Western Railway Company

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

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

The supply of any rolling or working stock, and of officers and servants for the conduct of the traffic on the railway:

The payments to be made and the conditions to be performed with respect to the matters aforesaid:

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting companies, and the fixing and division between the said companies of the receipts arising from such traffic.

Tolls on traffic conveyed partly on the railway and partly on the railway of the Great Southern and Western Railway Company

35. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway by the Great Southern and Western Railway Company, the railway of the company and of the Great Southern and Western Railway Company shall, for the purposes of tolls and charges, be considered as one railway; and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the Great Southern and Western Railway Company for a less distance than four miles tolls and charges may only be charged as for four miles; and in respect of passengers for every mile, or fraction of a mile beyond four miles, tolls and charges as for one mile only, and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond four miles tolls and charges as for a quarter of a mile only; and no other short-distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railway and partly on the railway of the Great Southern and Western Railway Company.

Interest not to be paid on calls paid up.

36. The company shall not, out of any money by this Act authorized to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; provided always, that this Act shall not prevent the company from paying to any shareholder

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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.

37. The company shall not, out of any money by this Act authorized 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 authorizing the 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.

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

Expenses of Act.

39. 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.

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