



ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

Cap. Ixii.

An Act to dissolve the *Mallow and Fermoy* Railway Company, and to transfer all the Powers of that Company for making and maintaining the *Mallow and Fermoy* Railway to the *Great Southern and Western* Railway Company. [27th July 1857.]

WHEREAS an Act was passed in the Session of Parliament held in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, intituled *An Act for making a Railway from the Great Southern and Western Railway near Mallow to Fermoy, to be called "The Mallow and Fermoy Railway," and for other Purposes*: And whereas the *Mallow and Fermoy* Railway Company, incorporated by the recited Act, have been and still are unable to execute their Undertaking, and have not raised any Money, nor constructed any Works: And whereas *Fermoy* is now an important Military Station, and it is expedient on public Grounds to ensure the early Completion of the Railway by the recited Act authorized to be made, and the *Great Southern and Western* Railway Company are able and willing at once to proceed with the Construction of and to complete that Railway, and it is expedient to dissolve the *Mallow and Fermoy* Railway Company, and to transfer to the *Great Southern and Western* Railway Company all the Powers of

17 & 18 Vict.
c. cxxxii.

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The Mallow and Fermoy Railway (Transfer) Act, 1857.

the *Mallow and Fermoy* Railway Company under the recited Act for making and maintaining the *Mallow and Fermoy* Railway; but for that Purpose the Authority of Parliament is necessary: 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.

I. In citing this Act for any Purpose, it shall be sufficient to use the Expression "*The Mallow and Fermoy* Railway (Transfer) Act, 1857."

Dissolution of
the *Mallow*
and *Fermoy*
Railway
Company,
and Transfer
of their
Powers to
the *Great*
Southern
and
Western
Railway
Company.

II. From and after the passing of this Act the *Mallow and Fermoy* Railway Company shall be dissolved and shall cease to exist, and thereupon all the Powers which were before and at the Time of the passing of this Act vested in the *Mallow and Fermoy* Railway Company under "*The Mallow and Fermoy* Railway Act, 1854," for making and maintaining the *Mallow and Fermoy* Railway by such Act authorized, shall be and are hereby transferred to and vested in the *Great Southern and Western* Railway Company, and the Clauses and Provisions of "*The Mallow and Fermoy* Railway Act, 1854," with respect to making and maintaining the Railway thereby authorized to be made, namely, the Sections of that Act numbered respectively from Twenty-two to Thirty inclusive of both Numbers, shall be read and construed and shall have the same Effect as if the Word "Company" in such Sections had originally meant the *Great Southern and Western* Railway Company instead of the *Mallow and Fermoy* Railway Company; and the Word "Company" in those Sections shall after the passing of this Act mean the *Great Southern and Western* Railway Company.

Repeal of
Part of
17 & 18 Vict.
c. cxxxii.

III. From and after the passing of this Act, the Provisions of the "*Mallow and Fermoy* Railway Act, 1854," with respect to the Incorporation of the *Mallow and Fermoy* Railway Company, and with respect to Capital and borrowing Money, and with respect to Tolls and Charges, namely, the Clauses of that Act numbered respectively from Three to Twenty-one inclusive of both Numbers, and from Thirty-one to Forty inclusive of both Numbers, shall be and are hereby repealed.

Actions not
to abate.

IV. Notwithstanding the Dissolution of the *Mallow and Fermoy* Railway Company, no Action, Suit, Prosecution, or other Proceeding commenced either by or against the *Mallow and Fermoy* Railway Company before such Dissolution shall abate, or be discontinued, or prejudicially affected by such Dissolution but on the contrary shall continue

The Mallow and Fermoy Railway (Transfer) Act, 1857.

continue and take effect both in favour of and against the *Great Southern and Western Railway Company* in like Manner to all Intents and Purposes as the same would have continued and taken effect in favour of and against the *Mallow and Fermoy Railway Company* if they had continued incorporated; and the Court in which any such Action, Suit, Prosecution, or other Proceeding is pending may, on the Application in a summary Way of any Party thereto, cause the Name of the *Great Southern and Western Railway Company* to be substituted for the Name of the *Mallow and Fermoy Railway Company* as Party to such Action, Suit, Prosecution, or other Proceeding, and the Name of the *Great Southern and Western Railway Company* shall after any such Substitution be used in any such Action, Suit, Prosecution, or other Proceeding, in like Manner as if the *Great Southern and Western Railway Company* instead of the *Mallow and Fermoy Railway Company* had originally been Party thereto.

V. Notwithstanding the Dissolution of the *Mallow and Fermoy Railway Company*, everything before such Dissolution done or suffered shall be as valid as if such Dissolution had not happened, and such Dissolution and this Act respectively shall accordingly be subject and without Prejudice to everything so done or suffered, and to all Rights, Liabilities, Claims, and Demands, both present and future, which, if such Dissolution had not happened and this Act had not been passed, would be incident to or consequent on any and every thing so done or suffered, and after such Dissolution the *Great Southern and Western Railway Company* shall to all Intents, with respect to all such Rights, Liabilities, Claims, and Demands, represent the *Mallow and Fermoy Railway Company*: Provided always, that the Generality of the preceding Provision shall not be affected by any of the other Clauses and Provisions of this Act.

Great Southern and Western Railway Company subject to Liabilities of the Mallow and Fermoy Railway Company.

VI. Notwithstanding such Dissolution, all the Provisions of the recited Act with respect to the making and maintaining the *Mallow and Fermoy Railway* shall be of the like Force as if such Dissolution had not happened, and may be exercised, enforced, and enjoyed by and against the *Great Southern and Western Railway Company*, and their Officers and Servants respectively, in as full and beneficial a Manner to all Intents and Purposes as the same respectively might have been exercised, enforced, and enjoyed by and against the *Mallow and Fermoy Railway Company*, and their Officers and Servants respectively, if this Act had not been passed and such Dissolution had not taken place.

Provisions of recited Act not to be affected.

VII. Notwithstanding such Dissolution, all Purchases, Sales, Conveyances, Deeds, Agreements, Securities, and Contracts made before such Dissolution shall be as effectual to all Intents for, against, and with respect to the *Great Southern and Western Railway Company*

Contracts, &c. preserved.

as

The Mallow and Fermoy Railway (Transfer) Act, 1857.

as if the same had been made by, to, or with respect to, the *Great Southern and Western Railway Company* instead of the *Mallow and Fermoy Railway Company*, and may be proceeded on and enforced in like Manner to all Intents as if the *Great Southern and Western Railway Company* had been Parties or privy thereto instead of the *Mallow and Fermoy Railway Company*.

Tolls and
maximum
Charges.

9 & 10 Vict.
c. cxevi.

VIII. The *Mallow and Fermoy Railway* shall form Part of the Undertaking of the *Great Southern and Western Railway Company*, and that Company may demand and receive for the Use of the *Mallow and Fermoy Railway* all such Tolls and Charges as they are entitled to receive for the Use of the *Great Southern and Western Railway*; but the maximum Charges to be made upon the said *Mallow and Fermoy Railway* shall not exceed the maximum Charges limited by an Act passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled *An Act to enable the Great Southern and Western Railway Company to extend their Railway from their present Terminus in the City of Cork to the River Lee in the same City*.

Rates for
small
Parcels.

IX. Notwithstanding anything to the contrary in the recited Acts contained, the *Great Southern and Western Railway Company* may, after the passing of this Act, demand for the Carriage of small Parcels upon the *Mallow and Fermoy Railway*, or any Part thereof, any Charges not exceeding the following; (that is to say,)

For any Parcel not exceeding Seven Pounds in Weight, Fourpence:

For any Parcel exceeding Seven Pounds in Weight, but not exceeding Fourteen Pounds in Weight, Sixpence:

For any Parcel exceeding Fourteen Pounds in Weight, but not exceeding Twenty-eight Pounds in Weight, Ninepence; and for any Parcel exceeding Twenty-eight Pounds in Weight, but not exceeding Fifty-six Pounds in Weight, One Shilling; and for Parcels exceeding Fifty-six Pounds in Weight, but not exceeding Five hundred 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 of separate Parcels, such as Bags of Sugar, Coffee, Meal, and the like, shall not be deemed small Parcels, but such Term shall apply only to single Parcels in separate Packages.

Passengers
Luggage.

X. Any Passenger travelling upon the *Mallow and Fermoy Railway* may, after the passing of this Act, 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.

XI. The

The Mallow and Fermoy Railway (Transfer) Act, 1857.

XI. The following Provisions of "The Companies Clauses Consolidation Act, 1845," shall be incorporated with and form Part of this Act; (that is to say,)

Certain Provisions of the 8 & 9 Vict. c.16. extended to this Act.

With respect to the Transfer and Transmission of Shares;

With respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for Nonpayment of Calls; and

With respect to the Consolidation of Shares into Stock.

XII. It shall be lawful for the *Great Southern and Western Railway Company* at any Time and from Time to Time, by an Order of any General or Special General Meeting of that Company, to raise for the Purposes of this Act such Sums of Money as may be necessary, not exceeding in the whole One hundred thousand Pounds: Provided always, that all and every Part of the Money so raised shall be applied only to the Purposes of this Act and to no other Purpose.

Power to *Great Southern and Western Railway Company* to raise additional Capital, and Application of same.

XIII. The *Great Southern and Western Railway Company*, with the Consent of Three Fifths of the Votes of the Shareholders present, personally or by Proxy, at a Special Meeting of the *Great Southern and Western Railway Company* convened for the Purpose, from Time to Time may create, for the Purpose of raising such Sums as aforesaid, such new Shares, either ordinary or preferential, and either of One Class and with like Privileges, or of several Classes and with different Privileges, and of the same or different Amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable or other Dividend or Interest not exceeding Five Pounds *per Centum per Annum*, as the *Great Southern and Western Railway Company* may from Time to Time think fit: Provided always, that all the Shares of the same Class shall be of like Amount, and all the Shares of the same Class shall confer like Privileges and bear the like Dividend or Interest.

Such Capital to be raised by new Shares.

XIV. The Directors of the *Great Southern and Western Railway Company* may from Time to Time issue such new Shares to such Persons and for such Considerations as they may think most advantageous to that Company: Provided always, that the Amount payable in respect of any such Share shall never be less than the nominal Value thereof.

How new Shares to be issued.

XV. Provided always, That any Preference which may be assigned to any Shares created under the Authority of this Act shall not
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Saving Rights of Preference

The Mallow and Fermoy Railway (Transfer) Act, 1857.

Shareholders.

prejudice or affect any Preference or Priority in the Payment of Interest or Dividend on any Shares or Stock of the *Great Southern and Western* Railway Company created or issued before the passing of this Act, or confirmed by any Act, or otherwise lawfully subsisting.

Interest on Calls not to be paid out of Capital.

XVI. The *Great Southern and Western* Railway Company shall not, out of any Money by this Act or any other Act relating to that Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, pay to any Shareholder Interest or Dividend on the Amount of Calls made in respect of the Shares held by him: Provided always, that the *Great Southern and Western* Railway Company may pay to any Shareholder such Interest on Money advanced by him beyond the Amount of Calls actually made as may be in conformity with the Provisions of "The Companies Clauses Consolidation Act, 1845."

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

XVII. The *Great Southern and Western* Railway Company shall not, out of any Money by this Act or any other Act relating to that Company authorized to be raised, pay or deposit any Sum of Money which by any Standing Order of either House of Parliament for the Time being in force may require to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the *Great Southern and Western* Railway Company to construct any other Railway or to execute any other Work or Undertaking.

After Two Years from passing of Act, certain Dividends not to be paid, unless the Mallow and Fermoy Railway is opened for Traffic.

XVIII. After the Expiration of Two Years from the passing of this Act, it shall not be lawful for the *Great Southern and Western* Railway Company to pay any Dividend on any Shares or Stock of that Company (not being Shares or Stock on which any fixed or guaranteed Dividend may be payable,) unless and until the *Mallow and Fermoy* Railway by this Act authorized to be made and completed by the *Great Southern and Western* Railway Company shall be opened for the Purposes of public Traffic.

Great Southern and Western Railway Company not exempt from Provisions of present and future General Railway Acts.

XIX. Nothing in this Act contained shall be deemed or construed to exempt the *Great Southern and Western* Railway Company from the Provisions of any General Act relating to Railways, or to the better and more impartial Audit of the Accounts of Railway Companies, now in force or which may hereafter pass during the present or any future Session of Parliament, or from any future Revision and Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges and the Rates for small Parcels authorized by the recited Act.

XX. The

The Mallow and Fermoy Railway (Transfer) Act, 1857.

XX. The Expenses, Costs, and Charges of preparing and passing this Act, and incidental and preparatory thereto, shall be paid by the *Great Southern and Western Railway Company.* Expenses of Act.

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