



CHAPTER cxxxvii.

An Act for the acquisition by the Lagan Navigation Company of the Ulster Canal and the Tyrone Navigation or Coal Island Canal from the Commissioners of Public Works in Ireland and for other purposes.

A.D. 1888.

[24th July 1888.]

WHEREAS the Lagan Navigation Company (hereinafter called "the Company") was by the Lagan Navigation Act 1843 incorporated for the purposes of that Act and with the powers privileges duties and liabilities therein mentioned and the said Act was declared to be in force for the term of thirty-one years from the passing thereof and was subsequently amended by the Lagan Navigation Act 1873 and as so amended was continued for a further term of thirty-one years from the passing of the said last-mentioned Act:

6 & 7 Vict.
c. civ.36 & 37 Vict.
c. lxxv.

And whereas under and subject to the provisions of the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty chapter one hundred and nine intituled "An Act for transferring the Ulster Canal to the Commissioners of Public Works in Ireland" the canal and navigation known as "the Ulster Canal" in the counties of Tyrone Armagh Monaghan and Fermanagh and all the undertaking property and works thereof and all powers privileges and authorities formerly vested in the Ulster Canal Company (which said property undertaking works powers privileges and authorities are in this Act included in the expression "the Ulster Canal") are vested in the Commissioners of Public Works in Ireland (in this Act referred to as "the Commissioners"):

And whereas the canal and navigation known as "the Tyrone Navigation" or "the Coal Island Canal" in the county of Tyrone and all the undertaking property and works thereof and all the powers and authorities formerly vested in the Directors of Inland Navigation in relation thereto (which said property undertaking works powers and authorities are in this Act included in the expression "the Tyrone Navigation") are vested in the Commissioners:

A.D. 1888.

And whereas the Company are desirous of acquiring the Ulster Canal and the Tyrone Navigation (in this Act referred to as "the said canals") and the Commissioners are willing to transfer the same but the transfer of the said canals to the Company cannot be carried into effect without the authority of Parliament:

And whereas it is expedient to enable the said transfer to be effected and to make such provisions in relation to the said transfer as are hereinafter contained:

And whereas it is also expedient to make such provision as hereinafter contained for the further continuance of the Lagan Navigation Acts aforesaid and for other matters relating to the Company in the event of the said transfer being carried into effect:

And whereas the objects aforesaid cannot be attained 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 Ulster Canal and Tyrone Navigation Act 1888.

Definitions.

2. In this Act—

"Treasury" means the Commissioners of Her Majesty's Treasury;

"Vessels" includes ships lighters barges boats and other craft by whatever means propelled or drawn;

"Goods" includes goods wares merchandise articles and things of every description.

Power to
Lagan Navi-
gation Com-
pany to ac-
quire Ulster
Canal and
Tyrone
Navigation.

3. (1.) The Company and the Commissioners acting with the consent signified in writing of the Treasury may agree for the transfer of the said canals to the Company upon such terms and in such manner as may be agreed on subject to the conditions following (that is to say):—

(A) The Company shall undertake to execute to the satisfaction of the Commissioners such works of repair and within such time not exceeding three years from the passing of this Act upon the said canals or one of them as may be specified in the agreement;

(B) The Company shall keep the said canals open for navigation and in a fit state of repair and provision shall be made for the forfeiture of the said canals by the Company and the reverter thereof to the Commissioners on default being made by the Company in such undertaking:

A.D. 1888.

(2) The Company and the Commissioners respectively shall execute all instruments and do all acts and things necessary for the purpose of carrying into effect the said agreement and on the date fixed for the transfer by the agreement the said canals and all powers and duties of the Commissioners in relation thereto shall be transferred to and vest in the Company subject to the terms of the agreement and the provisions of this Act.

4. Upon the transfer of the said canals to the Company taking effect the Company shall have the following powers (that is to say) :—

Power to
Company to
provide ves-
sels levy
tolls and
make bye-
laws.

(1) The Company may carry passengers animals and goods on the said canals and may haul vessels whether or not belonging to or used by the Company upon the said canals and may provide by purchase hiring or otherwise vessels persons animals and apparatus and other means for the purpose of such carriage and hauling :

(2) The Company may take remuneration for such carriage and hauling so that the rates tolls or charges in respect of carriage hauling lockage or for any other purpose shall not exceed such as are authorised in the Lagan Navigation Act 1873 and shall be approved in writing by the Commissioners :

(3) The Company for the purpose of recovering any such remuneration shall have the same powers as they have for recovering any tolls or rates upon or in relation to either of the said canals or the Lagan Navigation :

(4) The Company shall have the same power of making altering amending and repealing bye-laws with respect to vessels provided or used by them as they have with respect to any other vessels using the said canals or either of them.

5. Upon the transfer of the said canals to the Company taking effect the Company shall have power from time to time to borrow on mortgage of their canal undertaking any sum or sums not exceeding in the whole twenty thousand pounds for the following purposes or any of them (that is to say) :—

Extension of
borrowing
powers of
Company.

(A) For giving the Ulster Canal a navigable depth of five feet at least from end to end and otherwise improving the works thereof ;

(B) For the purpose of providing by building or purchase vessels animals and apparatus for the purpose of the carriage and hauling upon the said canals ;

(C) For the purpose of subscribing to any company or association for carrying goods upon the said canals ; and

A.D. 1888:

(D) For the purpose of subscribing to any company or association making or managing any tramway connected with the said canals or any part or parts thereof.

Prohibition
of undue
preference.

6. The Company shall not show any undue preference to any person in relation to the use of the said canals or any portion thereof or in the exercise of any power vested in the Company under or in pursuance of this Act but every person shall be entitled to the use of the said canals and of any vessel provided by the Company in pursuance of this Act on the same terms on which any other person would be so entitled under similar circumstances.

As to dis-
position of
canals.

7. Subject to the proviso hereinafter contained the Company shall not sell lease or otherwise dispose of the said canals or either of them or of any land or property held on account thereof without the authority of Parliament and without first giving notice in writing to the several secretaries for the time being of the grand juries of Armagh Tyrone Monaghan and Fermanagh Provided that nothing herein contained shall prevent the Company from leasing any lands or houses not required for the purpose of the Lagan Navigation or for the purposes of the said canals or either of them Provided that the lessees shall be entitled at any time during the continuance of their respective leases to purchase the reversion thereof at a price to be agreed on or failing agreement to be settled in manner provided by the Lands Clauses Consolidation Acts 1845 and 1860.

Continuance
of Lagan
Navigation
Acts.

8. In the event of the transfer of the said canals to the Company taking effect and the works of repair upon the said canals or either of them herebefore in this Act mentioned being certified in writing by the Commissioners to have been carried into effect in accordance with the provisions of this Act and the terms of the said transfer so much of section 2 of the Lagan Navigation Act 1873 as relates to the continuance of that Act and of the Lagan Navigation Act 1843 shall be repealed and the said Acts shall continue in force for the term of nine hundred and ninety-nine years from the date of the said transfer taking effect in like manner as if the term hereby limited for the continuance of the said Acts were substituted in the Lagan Navigation Act 1843 for the term therein in that behalf mentioned Provided that if the Company at any time—

(A) Sell lease or otherwise dispose of or endeavour to sell lease or otherwise dispose of the said canals or either of them or the Lagan Navigation or any part of the undertaking property or works thereof excepting the lands and houses aforesaid not required for the purposes of navigation without the authority of Parliament; or

(B) Close the said canals or either of them or fail to keep them or either of them open for navigation ;
 in either of such cases the provisions of this section for the continuance of the said Acts shall from that time cease to have effect and the said Acts shall (subject to the provisions therein contained) thenceforth continue in force for the unexpired residue (if any) of the period specified for their continuance in the said section 2 of the Lagan Navigation Act 1873 and no longer.

A.D. 1888.

9. Section 68 of the Lagan Navigation Act 1843 as amended by section 4 of the Lagan Navigation Act 1873 shall from and after the passing of this Act have effect subject to the following provisions (that is to say) :—

Amendment
of 6 & 7 Vict.
c. 104. s. 68
and 36 & 37
Vict. c. 65.
s. 4 as to
reserve fund.

(1) Any money required in pursuance of the said sections to be laid out in making new works for the improvement of the Lagan Navigation or to be set apart as a fund for the future improvement thereof and any fund so set apart may from time to time be laid out by the Company in making upon the said navigation works of reconstruction not included in the works of repair which under the Lagan Navigation Act 1843 the Company are required to execute Provided always that in case any dispute shall arise between the Commissioners and the Company respecting such works of reconstruction aforesaid and as to the necessity for expending any portion of the reserve fund thereon such dispute shall be settled by an arbitrator to be agreed upon between the parties or in case of difference to be appointed on the application of either party by the Treasury and the costs of such arbitration shall be settled by the arbitrator and shall be paid out of the said funds or by the Company out of their other funds or by the Commissioners according as the arbitrator may direct In the event of such works of reconstruction being executed the same shall be carried out under the inspection and to the satisfaction of the Commissioners and the Commissioners shall have the like powers in relation thereto as in the case of such new works as aforesaid ;

(2) The Company shall not be required to lay out or set apart for the purposes aforesaid in any year more than two hundred pounds nor to set apart more than may be sufficient to raise the said fund to the sum of one thousand pounds and from time to time to maintain it thereat.

10. From and after the passing of this Act the committee of management of the Company shall be called the board of directors of the Company and the Lagan Navigation Act 1843 and the Lagan

Committee
of manage-
ment of Com-
pany to be

A.D. 1888.
—
called direc-
tors.

Navigation Act 1873 shall be read as if in the sections of the said Acts relating to the committee of management the board of directors were referred to in lieu of the said committee and the said Acts shall have effect accordingly.

As to works
of repair.

11. The works of repair to be executed by the Company under their agreement with the Commissioners shall be deemed to include giving the Ulster Canal a navigable depth of five feet at least from end to end and otherwise improving the works thereof.

The reverter of the said canals to the Commissioners shall not operate as a discharge to the Company of any debts liabilities or obligations of the Company.

Provision as to
Ulster Canal
and Tyrone
Navigation in
case of expira-
tion of Lagan
Navigation
Acts.

12. Upon the Lagan Navigation Act 1843 and the Lagan Navigation Act 1873 ceasing to be in force the said canals shall vest in the Commissioners for all the estate and interest of the Company therein.

Costs.

13. The costs charges and expenses of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Company.

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