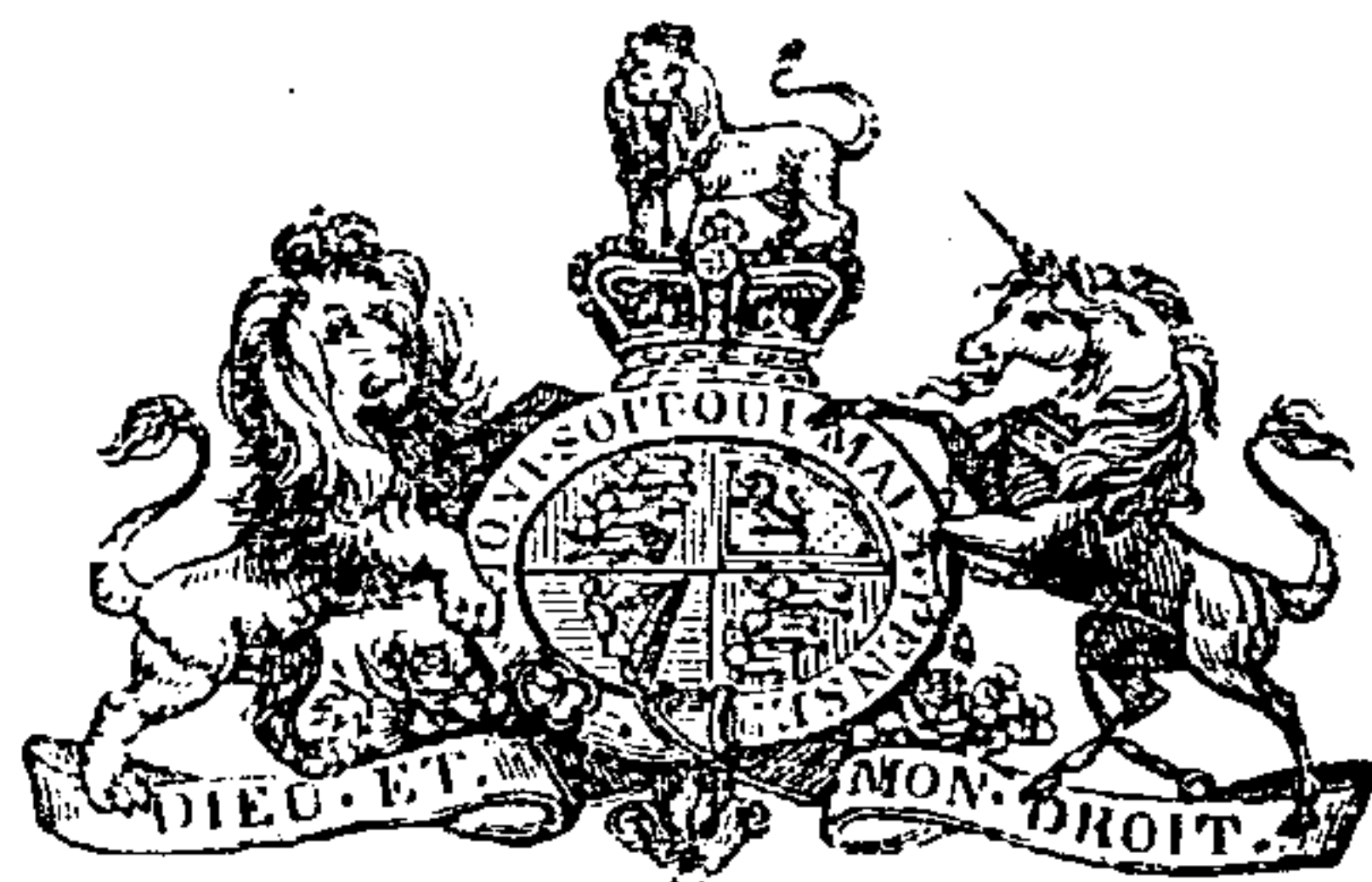




CHAPTER iii.

An Act to confirm an Order made by the Board of Trade under the Railway and Canal Traffic Act 1888 for the transfer of the Thames and Severn Canal to the County Council of Gloucestershire and for other purposes. A.D. 1901.

[2nd July 1901.]

WHEREAS the Board of Trade have made under the authority of the Railway and Canal Traffic Act 1888 the Provisional Order set out in the schedule to this Act annexed: 51 & 52 Vict.
c. 25.

And whereas a Provisional Order made by the Board of Trade under the authority of the Railway and Canal Traffic Act 1888 is not of any force or validity whatever until the confirmation thereof by Act of Parliament:

And whereas it is expedient that the said Provisional Order made by the Board of Trade under the authority of the said Act and set out in the schedule to this Act annexed be confirmed by Act of Parliament:

Be it therefore enacted by the King'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:—

1. This Act may be cited as the Thames and Severn Canal Order Confirmation Act 1901. Short title.

2. The Order as amended and set out in the schedule to this Act shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the schedule shall from and after the passing of this Act have full validity and effect. Confirmation
of Order in
schedule.

3. The County Council of Gloucestershire shall not under the powers of this Act or of the said Order purchase or acquire in any city borough or urban district or in any parish or part of a parish Special pro-
vision as to
houses of
labouring
class.

A.D. 1901. — not being an urban district ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

If the said County Council purchase or acquire any house or houses under the powers of this Act or of the said Order in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom. Provided that the Court may if it thinks fit reduce such penalty.

For the purposes of this section the expression "labouring class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings per week and the families of any of such persons who may be residing with them. The expression "house" means any tenement separately occupied by any person or persons.

SCHEDULE.

A.D. 1901.

THAMES AND SEVERN CANAL.

Order made in pursuance of Section 45 of the Railway and Canal Traffic Act 1888 for the transfer of the Thames and Severn Canal to the County Council of Gloucestershire and for other purposes.

1. This Order may be cited as the Thames and Severn Canal Order 1901. Short title.

2. In this Order—

Interpretation.

“The Act of 1895” means the Thames and Severn Canal Trust Act 1895;

“The Canal Trust” means the Thames and Severn Canal Trust incorporated by the Act of 1895;

“The undertaking” means the canal and collateral cut and all lands and buildings and other property real and personal of every description belonging to or vested in the Canal Trust immediately before the ~~confirmation of this Order together with all rights powers privileges~~

and immunities exerciseable or enjoyed by the Canal Trust under the provisions of the Act of 1895 and of the Acts therein recited;

“The navigations” means the company of proprietors of the Stroudwater Navigation the Sharpness New Docks and Gloucester and Birmingham Navigation Company the Severn Commissioners the company of proprietors of the Staffordshire and Worcestershire Canal Navigation and the Wilts and Berks Canal Company;

“The public bodies” means the County Council of Berkshire the County Council of Gloucestershire the County Council of Wiltshire the mayor aldermen and citizens of the city of Gloucester in the county of the city of Gloucester the Stroud Urban District Council and the Cirencester Urban District Council;

“The County Council” means the County Council of Gloucestershire.

3. The Lands Clauses Acts except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement are hereby incorporated with this Order. Incorporation of Acts.

Transfer of Undertaking to County Council.

4. On the confirmation of this Order the undertaking shall be by virtue of this Order without any deed of conveyance or other instrument transferred to and vested in the County Council for all the estate and interest of the Canal Transfer of undertaking to County Council

A.D. 1901. Trust therein and shall be held and managed by the County Council subject to and in accordance with the provisions of this Order.

Debts due
from and to
Canal Trust.

5. The County Council shall pay and satisfy all the debts and liabilities of the Canal Trust as they exist at the date of the transfer including the sum of four thousand pounds which has been borrowed by the Canal Trust and shall be entitled to recover and enforce payment of all debts then due to the Canal Trust.

Actions &c.
not to abate.

6. Any action prosecution or other proceeding by or against the Canal Trust pending or existing at the date of transfer shall not abate or be discontinued or be prejudicially affected by the transfer but the same may from and after the transfer be continued and take effect by in favour of and against the County Council in the same manner as it might have been continued and taken effect by in favour of and against the Canal Trust if the transfer had not taken place but not further or otherwise.

Books &c. to
be evidence.

7. All books and documents which would have been evidence in respect of any matter for or against the Canal Trust shall from and after the transfer of the undertaking be admitted as evidence in respect of the same or the like matter for or against the County Council.

Byelaws to
remain in force.

8. All the byelaws rules and regulations of the Canal Trust relating to the management use or control of the undertaking in force at the date of transfer shall from and after such date continue to be in force and applicable to and ~~in respect of the undertaking and shall and may be enforced by him and be~~ available to the County Council in their own name as well for the recovery of penalties as for all other purposes until the same are altered or repealed or other byelaws rules and regulations are duly made in their stead by the County Council.

General saving
of rights
under Acts.

9. Except as by this Order otherwise provided everything before the date of transfer of the undertaking done suffered or confirmed under or by virtue of the Act of 1895 or any of the Acts therein recited or any other Act relating to the Canal Trust or the undertaking shall be as valid as if the transfer had not been made and as if this Order had not been confirmed and the transfer and this Order respectively shall accordingly be subject and without prejudice to everything so done suffered and confirmed and to all rights liabilities claims and demands both present and future which if the transfer had not happened and this Order had not been confirmed would be incident to or consequent on anything so done suffered and confirmed as aforesaid.

Application of
Act of 1895
and other
enactments.

10. Subject to the provisions of this Order the provisions of the Act of 1895 and of the Acts therein recited (so far as they are now in force) shall apply to the undertaking in the hands of the County Council in like manner as they applied to the undertaking in the hands of the Canal Trust to the intent that the County Council may in all respects be substituted for the Canal Trust in the ownership and management of the undertaking.

A.D. 1901.

11. On the confirmation of this Order the Canal Trust shall be by virtue of this Order dissolved and cease to exist.

Dissolution of
Canal Trust.

Management of Undertaking by County Council.

12. The sole management and control of the undertaking is hereby vested in the County Council subject to the provisions of this Order and of the general Acts relating to canals for the time being in force.

Management
of undertaking
vested in
County Council.

13. The County Council may delegate all or any of their powers and duties under this Order (other than the power to make a rate or of borrowing money) to a committee of their body appointed under the Local Government Act 1888. Provided that the County Council may if they see fit add to such committee persons who are not members of the County Council and may fix the tenure of office of any person so added and may remove any such person from office and may pay to any such person reasonable remuneration for his services and travelling expenses and the provisions of subsection 5 of Section 9 of the Act of 1895 shall apply:

Delegation
of powers of
management
to committee.

Provided also that if and when the County Council shall add to such committee any persons who are not members of the County Council the County Council of Berkshire the County Council of Wiltshire and the Mayor Aldermen and Citizens of the City of Gloucester shall each be invited from time to time to nominate one of such persons and the County Council shall add to the committee the persons so nominated.

14. The County Council shall have power if they see fit to demise the undertaking or any part thereof for any term not exceeding twenty-one years to any of the navigations or public bodies on and subject to such terms and conditions as may be agreed between the County Council and the lessee and any lease granted under this section may provide for the exercise and performance by the lessee of all or any of the powers and duties of the County Council in relation to the undertaking.

Power to lease
undertaking.

Financial.

15. All expenditure by the County Council for the purposes of this Order shall be deemed to be a general county purpose within the meaning of the Local Government Act 1888.

General pro-
vision as to
expenditure.

16.—(1) For the purpose of putting the canal into a proper state of repair and of meeting any other expenditure properly chargeable to capital the County Council may from time to time borrow any sums not exceeding fifteen thousand pounds.

Power of
County Council
to borrow.

(2) The County Council may also if they see fit for the purpose of discharging the whole or any part of the sums of fifteen thousand pounds and four thousand pounds which have been borrowed by the Canal Trust borrow any sums not exceeding the amount or amounts requisite for that purpose.

17. All sums which the County Council are authorised to borrow under this Order may be borrowed and reborrowed by the County Council on the

Mode of
borrowing.

A.D. 1901. security of the undertaking and of the county fund and of any revenues of the County Council in manner provided by Section 69 of the Local Government Act 1888 and that section shall apply accordingly for the purposes of this Order except that the consent of the Local Government Board shall not be required to the borrowing of any moneys which the County Council are by this Order authorised to borrow. Provided that in regard to any moneys borrowed by the County Council for the purpose of discharging the whole or any part of the said sums borrowed by the Canal Trust the interest thereon and any redemption of principal by way of instalments of principal or of principal and interest combined or by way of sinking fund shall be expenditure by the County Council within the meaning of Section 45 of the Act of 1895 and shall be apportioned amongst and payable by the navigations and public bodies in the same manner as any deficiency in respect of interest and sinking fund is to be apportioned and payable under Sections 45 46 and 47 of the said Act :

Provided also that the contributions of the navigations and public bodies shall in no case be payable towards the redemption of a principal debt exceeding in amount at any one time the sum of fifteen thousand pounds.

Recoupment of
county fund.

18. All sums expended by the County Council out of the county fund for the purposes of this Order shall be debited to the Thames and Severn Canal Account herein-after mentioned and shall ultimately be recouped to the county fund from that account as and when there shall in the opinion of the County Council be sufficient moneys to the credit of that account for the purpose. And any moneys so recouped (other than moneys borrowed by the County Council under this Order) shall be deemed to be revenue and not capital of the County Council and shall be carried to their general purposes account and applied in reduction of county rate unless the County Council otherwise direct.

Account of
receipts and
expenditure.

19. A separate account to be called the Thames and Severn Canal Account shall be kept by the County Council and all receipts and expenditure of the County Council in respect of the undertaking shall be carried to that account. Any deficiency arising on that account after allowing for any contributions receivable from the navigations or the public bodies under the provisions of the Act of 1895 and this Order may be made good out of the county fund. Any surplus of revenue over expenditure after making the payments prescribed by Section 35 of the Act of 1895 as modified by this Order and after recouping any moneys expended out of the county fund for the purposes of this Order and repaying any moneys borrowed under this Order may either be carried forward or be applied in reduction of the canal tolls and charges as the County Council may see fit.

Application
of revenue.

20. The revenue of the undertaking shall be applied by the County Council in manner prescribed by Section 35 of the Act of 1895. Provided that—

- (i) If any moneys borrowed by the Canal Trust shall be discharged out of moneys borrowed by the County Council under this Order or out of the

county fund then and in every such case the payments to be made to the sinking fund under paragraph (E) of the said Section 35 shall be calculated only on the balance for the time being left outstanding of the moneys borrowed by the Canal Trust as aforesaid;

A.D. 1901.

- (ii) Interest at a rate of not exceeding four pounds per centum per annum shall be payable out of the revenue of the undertaking on any sums for the time being expended by the County Council otherwise than out of the revenue of the undertaking for the purposes of this Order in priority to any payment under the paragraph marked (F) of Section 35 of the Act of 1895 and also in priority to any reduction of the two sums of six hundred pounds to be contributed by the navigations and public bodies respectively under Sections 44 to 46 of the Act of 1895;
- (iii) The paragraph marked (G) shall be read and have effect as if at the end thereof the words following were added "and in recouping any sums
" expended out of the county fund of the County Council otherwise than
" out of the revenue of the undertaking for purposes of this Order and
" in repaying any moneys borrowed under this Order";
- (iv) Section 41 of the Act of 1895 (Application of surplus revenue) shall not apply to the County Council.

21. The County Council may from time to time reduce the canal tolls and charges or any of them and again raise any tolls or charges so reduced provided that the maximum toll or charge be not in any case exceeded.

Power to
alter tolls.

22. Nothing in this Order shall limit or release any liability of the navigations and public bodies or any or either of them under the Act of 1895 as existing at the date of the transfer of the undertaking.

Saving for
liabilities of
navigations and
public bodies.

23. The accounts of the receipts and expenditure of the County Council under this Order shall be audited in like manner and with the like incidents and consequences as their accounts under the Local Government Act 1888.

Audit of
accounts.

24. All the costs charges and expenses incurred by the County Council in or about the preparation and obtaining the confirmation of this Order shall in the first instance be paid by the County Council out of the county fund but ultimately out of the Thames and Severn Canal Account.

Costs of Order.

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