



CHAPTER clxxvi.

An Act to authorise the Newry Navigation Company to consolidate and convert their Mortgage Debt and for other purposes. A.D. 1897.
—
[6th August 1897.]

WHEREAS by and in pursuance of an Act passed in the tenth year of the reign of King George IV. intituled "An Act for the improvement and extension of the Newry Navigation" the Newry Canal and Navigation extending from the town of Warrenpoint to Lough Neagh was vested in the Newry Navigation Company (herein-after called "the Company") who were thereby authorised to execute certain works in connexion with the Newry River for the purpose of improving the navigation between the port and harbour of Newry and the sea: 10 Geo. IV.
c. cxxvi.

And whereas by the Newry Navigation Act 1884 (herein-after called "the Act of 1884") and the Acts therein recited the Company were authorised to construct a certain channel and to execute and carry out further works for the improvement of the navigation of the Newry River and the upper portion of Carlingford Lough and by the Act of 1884 the Company were authorised to borrow a sum not exceeding forty thousand pounds: 10 Geo. IV.
c. cxxvi.
6 Wm. IV.
c. lxxi.
4 & 5 Vict.
c. lvi.

And whereas the authorised share capital of the Company is eighty thousand pounds and the Company borrowed prior to the Act of 1884 from the Commissioners of Public Works in Ireland (herein-after called "the Commissioners") the sum of forty-two thousand pounds repayable by an annuity at the rate of five per centum on the principal sum for the time being outstanding:

And whereas under the powers of the Act of 1884 the Company borrowed from the Commissioners the further sum of forty thousand pounds bearing interest at the rate of four pounds per centum per annum and in consequence of the difficult nature of the works authorised by the Act of 1884 and the insufficiency of the said loan for their due execution the Company also borrowed

A.D. 1897. from the said Commissioners on the personal security (as to two thirds of the loan) of the committee of management of the Company the sum of fifteen thousand pounds bearing interest at the rate of four pounds per centum per annum (which loans are herein-after respectively referred to as "Loans Numbers 1 2 and 3" or collectively as "the Treasury loans") :

And whereas the Company have no mortgage bond or other debts except the Treasury loans and their aggregate indebtedness consisted on the thirty-first day of December one thousand eight hundred and ninety-six of the following sums :—

	£	s.	d.	£	s.	d.
Loan No. 1 - -	42,000	0	0			
Less paid off -	20,384	9	11			
				21,615	10	1
Loan No. 2 - -	-	-	-	40,000	0	0
Loan No. 3 - -	15,000	0	0			
Less paid off -	5,000	0	0			
				10,000	0	0
Total - -				£71,615	10	1

And whereas the Act of 1884 also provided that the revenue of the Company should after payment of working expenses interest on mortgages a cumulative dividend of five pounds per centum per annum to the shareholders of the Company and the formation of a reserve fund be applied in the further improvement of the port and harbour of Newry as defined by that Act and the reduction of the rates tolls dues and charges as the Company think fit :

And whereas the Company have expended large sums of money on the improvement of the said port and harbour and have regularly paid the sums due as to principal and interest on the Treasury loans but save between the years 1876 and 1888 the Company have received no return or dividend on the capital invested and the Company have no borrowing powers applicable to the purposes of this Act :

And whereas the net annual revenue of the Company has during the four years ending the fifth day of April one thousand eight hundred and ninety-six averaged the sum of five thousand five hundred and twenty-two pounds and the Company are in a position to raise at a lower rate of interest than that now exigible on the Treasury loans a sum sufficient to pay off the same and it is expedient that for the purpose of such payment the Company be authorised to borrow moneys on mortgage or debenture

stock as herein-after provided and that the Commissioners be empowered to accept such repayment in full discharge of all claims in respect of the Treasury loans :

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And whereas the provisions of this Act have been submitted to and have received the approval of the Commissioners and of the Treasury :

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 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 Newry Navigation Act 1897.

Short title.

2. The provisions of the Acts herein-after specified are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say) :—

Incorporation of Acts.

The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say) :—

The borrowing of money by the Company on mortgage or bond ; and

The conversion of borrowed money into capital :

And Part III. (relating to debenture stock) of the Companies Clauses Act 1863.

3. The Company may for the purposes of this Act borrow on mortgage of their undertaking and the rents rates tolls dues and charges raised by them in respect thereof any sum of money not exceeding eighty thousand pounds in the whole at such a rate of interest as the Company shall think fit.

Power to borrow.

4. Every provision of any Act relating to the Company whereby the Company is authorised to raise money by borrowing for the purposes of their undertaking with respect to the appointment of a receiver for enforcing payment by the Company of arrears of principal or interest or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment which has been made or to the continuance of any proceedings which have been commenced prior to the passing of this Act under such provisions The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order

For appointment of a receiver.

A.D. 1897. — to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than four thousand pounds in the whole.

Debenture stock.

5. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed upon all mortgages and certificates of debenture stock.

Mortgages and debenture stock under this Act to form first charge on undertaking and revenues.

6. When and so soon as the Company shall have paid off the Treasury loans as herein-after provided the mortgages and debenture stock granted or created and issued by the Company under the provisions of this Act shall form a first charge upon the Company's undertaking and upon the rents rates tolls dues and charges and other revenues for the time being levied by or accruing due to the Company and all moneys so raised shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act. Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock. And provided further that nothing in this section shall take away or in any degree affect the priority of the Treasury loans or of such of them or of such part of them as may for the time being remain outstanding and unpaid.

Application of moneys borrowed.

7. All moneys borrowed by the Company under the powers of this Act shall be applied in the order following (that is to say) :—

- (1) In paying the costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act;

(2) In paying to the Commissioners the principal sums due in A.D. 1897.
respect of the Treasury loans ;

(3) The balance if any shall be applied to the purposes of the
Company to which capital is properly applicable :

And the Commissioners shall accept the sums so paid in full
satisfaction and discharge of all their claims and demands upon
the Company and the committee of management thereof under or
in respect of the principal sums comprised in the Treasury loans
or the mortgage deeds or other instruments by which the same are
secured.

8. Lenders of money to the Company under this Act shall not
be bound to inquire as to the observance by the Company of any
of the provisions of this Act or to see to the application or be
answerable for any loss or non-application of the money lent or
any part thereof. For the pro-
tection of
lenders.

9. All moneys from time to time after the passing of this Act
arising from any rents rates tolls dues and charges payable to the
Company and from other revenues of the port and harbour as
defined by section 2 of the Act of 1884 (not being borrowed
moneys moneys produced by the sale of lands or other moneys
in the nature of capital) shall be applied by the Company to all
or some of the following purposes (that is to say) :— Application
of rents rates
&c.

In payment of all expenses incurred by the Company in relation
to the maintenance and management of their undertaking not
properly chargeable to capital account ;

In payment of interest upon the Treasury loans and upon all
mortgages bonds or debenture stock granted or created and
issued by the Company and subject thereto in the formation
of a sinking fund of such amount as they from time to time
determine but not exceeding six hundred pounds per annum
to be applied in payment of such mortgages bonds or debenture
stock ;

In payment of a dividend at a rate not exceeding five pounds
per centum per annum to the shareholders of the Company
according to the amounts for the time being paid up upon the
shares held by them respectively Provided always that if
there are not in any year profits available for the payment of
the full amount of dividend at the rate of five per centum for
that year the deficiency may be made good out of the profits
of any subsequent year ;

In the further improvement of the said port and harbour or in
such reduction of the rates tolls dues and charges as the
Company from time to time think fit ;

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In making and maintaining such other improvements in the said port and harbour and generally in executing and maintaining such works in connexion therewith as to the Company shall seem fit;

In the formation of a reserve fund to the amount of five thousand pounds exclusive of the existing reserve fund of the Company.

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