

ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

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CAP. CIX.

An Act for transferring the *Ulster* Canal to the Commissioners of Public Works in *Ireland*.

[5th *July* 1865.]

WHEREAS an Act was passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, being an Act for making and maintaining a navigable Canal from *Lough Erne* in the County of *Fermanagh* to the River *Blackwater* near the Village of *Charlemont* in the County of *Armagh*, which Act was amended by an Act of the Session held in the Ninth Year of His said late Majesty, Chapter Ninety-six, and by a further Act of the Session held in the Tenth Year of His said late Majesty, Chapter One hundred and nine, and by a further Act of the Session held in the Second Year of His late Majesty King *William* the Fourth, Chapter Fifty-six: And whereas considerable Progress was made in the Execution of the said Canal, being commonly called the *Ulster* Canal, by the Company authorized to be formed and incorporated by the said firstly-recited Act, under the Style of the *Ulster* Canal Company: And whereas the Commissioners acting in the Execution of an Act made and passed in the Fifty-seventh Year of the Reign of His late Majesty King *George* the Third, being an Act to authorize the Issue of Exchequer Bills,

6 G. 4. c. 193.

9 G. 4. c. 96.

10 G. 4. c. 109.

1 & 2 W. 4. c. 56.

and the Advance of Money to a limited Amount out of the Consolidated Fund for the carrying on of Public Works and Fisheries in the United Kingdom, and of the subsequent Acts amending the same (which Commissioners were then commonly called the Exchequer Loan Commissioners), did on or about the Twelfth Day of *August* One thousand eight hundred and thirty-three, under the Provisions of the said last-mentioned Acts or some of them, consent to advance to the said *Ulster* Canal Company a Loan of One hundred and twenty thousand Pounds, by Six several Instalments of Twenty thousand Pounds each: And whereas Three of the said Instalments were respectively advanced to the said Canal Company on the Twelfth Day of *August* One thousand eight hundred and thirty-three, the Fourteenth Day of *April* One thousand eight hundred and thirty-five, and the Thirteenth Day of *October* One thousand eight hundred and thirty-five, and the Repayment thereof secured to the said Loan Commissioners by Three several Indentures of Mortgage, under the Common Seal of the said Canal Company, bearing Date respectively the Twelfth Day of *August* One thousand eight hundred and thirty-three, the Fourteenth Day of *April* One thousand eight hundred and thirty-five, and the Thirteenth Day of *October* One thousand eight hundred and thirty-five, whereby, for the Considerations therein mentioned respectively, the said Canal Company conveyed to *John Strettel Brickwood*, the Secretary of the said Commissioners, all the Rates and Tolls of the said Canal receivable under the said Acts authorizing and enabling the Construction of the same, and all the Freehold and Leasehold Tenements and Premises of the said Company, subject to Redemption on Payment by the said Company of the said Principal Sums so advanced, and of all Interest thereon, by such Instalments as were thereby provided: And whereas an Act was passed in the Sixth Year of His said late Majesty King *William* the Fourth, being an Act to amend and enlarge the Powers and Provisions of the several Acts for making and maintaining the *Ulster* Canal in the Counties of *Fermanagh*, *Monaghan*, and *Armagh*, in *Ireland*, and thereby the said Canal Company was empowered to make certain Deviations from the Line or Course of the said Canal, and to make and maintain a certain Reservoir at *Quigalough* in the County of *Monaghan* for the Purpose of supplying the said Canal with Water, with Aqueducts, Pipes, and other Works necessary for such Reservoir, and for the Purpose of such Deviations and of such Reservoir and other Works; and the said Company was empowered to acquire other Lands as therein provided; and it was thereby enacted, that all Powers, Authorities, Lands, Works, and Property whatsoever which should become vested in the said Company by virtue of the said Acts should form Part of the Premises and

6 W. 4. c. 72.

Property

Property so assigned and conveyed by way of Mortgage to the said *John Strettel Brickwood* as aforesaid: And whereas Three several further Sums of Twenty thousand Pounds each were advanced by the said Loan Commissioners to the said Canal Company, and by Three several further Indentures of Mortgage of the said Canal and Undertaking, bearing Date respectively the Seventh Day of *June* One thousand eight hundred and thirty-six, the Eleventh Day of *October* One thousand eight hundred and thirty-six, and the Ninth Day of *May* One thousand eight hundred and thirty-seven, the Repayment of the said Three several last-mentioned Sums was secured to the said Commissioners, payable by Instalments as therein respectively provided: And whereas by virtue of the Provisions of the said Six several Indentures of Mortgage it was provided, that the said Six several Sums of Twenty thousand Pounds should be repaid by the Payment of Six several Sums of Five thousand Pounds each on the Twelfth Day of *August* One thousand eight hundred and thirty-eight, and by Fifteen subsequent equal yearly Instalments on the Twelfth of *August* in the Fifteen subsequent Years: And whereas by a certain Indenture of Mortgage, bearing Date the Thirty-first Day of *October* One thousand eight hundred and forty, and made between the said *Ulster* Canal Company of the First Part, Sir *John Fox Burgoyne*, *Brooke Taylor Ottley*, and *John Radcliffe*, Esquires, Commissioners of Public Works in *Ireland*, of the Second Part, and *Henry Richard Paine*, then Secretary to the said Commissioners of Public Works, of the Third Part, in consideration of a further Sum of Ten thousand Pounds agreed to be advanced by the said Commissioners of Public Works to the said *Ulster* Canal Company, all the said Canal and Undertaking, and the Rents and Tolls thereof, and all the several Hereditaments and Premises in the said Indenture of Mortgage particularly described, and acquired by the Canal Company for the Purpose of their said Undertaking, were conveyed to the said *Henry Richard Paine* as such Secretary as aforesaid (subject nevertheless to the said Securities of the said Loan Commissioners) by way of Mortgage, and in order to secure the Repayment of the said Sum of Ten thousand Pounds by certain half-yearly Instalments as therein provided: And whereas by a certain Indenture of Demise bearing Date the Twenty-sixth Day of *March* One thousand eight hundred and fifty-one, and made between the said *John S. Brickwood* of the one Part, and *William Dargan* of the other Part, after reciting the said Six several Indentures of Mortgage firstly herein-before mentioned, and reciting, as the Fact was, that the whole of the said Sum of One hundred and twenty thousand Pounds was due and unpaid, the said *John Strettel Brickwood*, as such Secretary as aforesaid, and by virtue of the Statutes enabling the said Commissioners in that

Indenture of Demise dated 26th March 1851.

that Behalf, demised all the said Canal and Undertaking, and the Rates and Tolls thereof, to the said *William Dargan* for the Term of Fourteen Years, computed from the First Day of *January* One thousand eight hundred and fifty-one, subject to the yearly Rent of Four hundred Pounds, and to a further Rent of Twenty Pounds for every One thousand Tons of Traffic on the said Canal exceeding Twenty thousand Tons, in manner therein mentioned: And whereas the said Lease expired by Effluxion of Time on the First Day of *January* One thousand eight hundred and sixty-five: And whereas no Part of the said Sum of One hundred and twenty thousand Pounds so advanced by the said Public Loan Commissioners, or of the said Sum of Ten thousand Pounds advanced by the said Commissioners of Public Works, has ever been repaid, but the same, together with large Arrears of Interest thereon respectively, still remain due and owing, and the whole Amount so due on Foot of the said Securities greatly exceeds the Value of the said Canal and Undertaking and Premises so subject to the said Mortgages, and the said Canal has long since ceased to be occupied or worked by the said Canal Company, and the same is now in possession of the said Public Works Loan Commissioners: And whereas the said Canal and Works have fallen into Disrepair in many Places, and it is expedient that Provision should be made for the Repair thereof, and it may be necessary to acquire further Rights in Water for the Supply of the same, and also to construct further Works in connexion with the said Canal, and it is expedient to transfer the said Canal and Undertaking and all Property thereof to the Commissioners of Public Works in *Ireland* for the Purposes herein-after expressed: Be it therefore 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:

Canal and Undertaking transferred to the Commissioners of Public Works in Ireland.

1. All the said Canal called the *Ulster* Canal, and all the Undertaking of the same, together with all the Powers, Privileges, and Authorities vested in the said *Ulster* Canal Company by any of the Acts constituting or enabling such Company, whether of levying and receiving Tolls, Rates, or otherwise, and all the Works and Property of the said Company, and all Lands, Tenements, and Hereditaments at any Time heretofore acquired by or vested in the same Company, together with all the Appurtenances thereof, and all the Estate, Right, Title, and Interest of the said Company in or to the same, shall, from and after the passing of this Act, be vested in the Commissioners of Public Works in *Ireland*, freed and discharged from all Estates, Charges, and Incumbrances heretofore made, permitted, or suffered by the said Canal Company.

2. The

Commissioners of Public Works to be a Corporation for Purposes of this Act.

2. The said Commissioners of Public Works, for the Purposes of this Act, shall be incorporated under the Style of the Commissioners of Public Works in *Ireland*, and by that Name shall have perpetual Succession and a Common Seal, to be by them made, and from Time to Time altered, as they shall think fit.

Power to acquire Water and Lands, &c.

3. It shall be lawful for the said Commissioners, with the Sanction of the Lords Commissioners of Her Majesty's Treasury, to acquire any Waters, Lands, Tenements, and Hereditaments which may be necessary or convenient for the said Canal, either by Purchase or by way of Lease.

Railway Companies Acts available.

4. For the Purpose of empowering the said Commissioners to purchase or take any such Waters, Lands, or Hereditaments, and of enabling all Corporations, Bodies Politic, and other Persons to convey the same, and for the Purpose of ascertaining the Purchase Money or Compensation to be paid for the same, and the Disposition of such Purchase Money or Compensation, all and every the statutory Enactments now in force, and enabling any Railway Company in *Ireland* to acquire Lands for the Purpose of its Undertaking, shall be deemed to be incorporated with this Act, and the said Commissioners shall be deemed the Promoters, and this Act shall be deemed the Special Act, within the Meaning of the said statutory Enactments.

Commissioners may sell or demise.

5. It shall be lawful for the said Commissioners of Public Works, with the Sanction of the Lords Commissioners of Her Majesty's Treasury, to sell and convey or lease the said Canal and Undertaking, and all the Lands, Tenements, Waters, and other Matters and Things appurtenant to the same, for such Price, or, in the Case of any such Lease, for such Term of Years, at such Rent, and with or without the Payment of any Fine, and generally upon such Terms, as the said Commissioners of Public Works may think proper; and every Conveyance or Lease of the said Canal and Undertaking in pursuance of this Act shall be effectual to transfer to the Purchaser or Lessee all the Premises expressed to be thereby conveyed or demised, for all the Estate purporting to be thereby transferred, freed and discharged of all prior Estates, Charges, and Incumbrances created or suffered by the said Canal Company or their Assigns.

Sale or Lease valid.

6. Any such Sale and Conveyance or Lease (as the Case may be) may be made to any Person or Persons, or to any public Company which may be empowered to purchase the said Canal and Premises, or to take the same on Lease.

7. The

Commissioners to possess the Powers of the Canal Company.

7. The said Commissioners of Public Works, so long as they may manage the said Canal, and every such Person or Persons or public Company as aforesaid, from and after such Purchase or Lease, and so long as the said Canal and Premises shall be vested in such Purchasers or Lessees, shall possess all the Rights, Authorities, and Privileges, and be subject to all the Liabilities, which the said Canal Company would have possessed or would have been subject to had such Canal Company continued to possess and manage the said Canal and Premises.

Application of Tolls, Rates, &c.

8. All Sums of Money received by the said Commissioners of Public Works in respect of any such Sale or Lease as aforesaid, and the Surplus of all Monies received by them for Rates, Tolls, and Profits in the Management of the said Canal, and which shall remain after defraying the current Expenses thereof, shall be applied in the first place to the Payment of all Sums due for Principal and Interest on Foot of the Advances of public Money so made to the said Canal Company in the Manner herein-before mentioned, and the Interest due thereon, and in the next place to the Payment of all Sums advanced and Expenses incurred by virtue of this Act, with Interest thereon at the Rate of Four *per Centum per Annum* from the Time such Advances shall have been made or Expenses incurred, or in such other Manner as the Lords Commissioners of Her Majesty's Treasury may from Time to Time direct.

Enactments in 1 & 2 W. 4. c. 33. extended to this Act.

9. And be it enacted, That the several Enactments contained in an Act passed in the Session of Parliament holden in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Extension and Promotion of Public Works in* Ireland, which affect or relate to any Action or Suit to be commenced against the Commissioners for the Execution of the last-recited Act, or any Person or Persons, for anything done by virtue of or in pursuance of the last-recited Act, or any Proceedings in any such Action or Suit, or any Limitation of Time for the Commencement thereof, or any Costs thereof, or any Evidence to be given therein, or any Notice of Action or Suit, or Satisfaction or Tender thereof, or any Action or Suit to be commenced by the said Commissioners, or any Proceedings therein, or any Abatement or Discontinuance of any such Action or Suit, or to the Court in which, or to the Terms or Conditions on which, any such Action or Suit shall be brought against the said Commissioners, collectively or individually, shall, so far as the same are applicable, be held to apply to and extend to any Action or Suit to be commenced against the Commissioners of Public Works in *Ireland*, or any

any Person or Persons, for anything done by virtue of, or in pursuance of, or on account of this Act, or to any Proceedings in or relating to any such Action or Suit.

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