



ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. cxxxi.

An Act for empowering the Commissioners of the Harbour of *Tralee* to raise Money, and for other Purposes. [30th *June* 1864.]

WHEREAS an Act was passed in the Ninth Year of the Reign of King *George* the Fourth, intituled *An Act for making and maintaining a navigable Cut or Canal from a Point at or near the Black Rock in the Harbour of Tralee in the County of Kerry to Croompanrickard near the Town of Tralee in the said County, and for otherwise improving the said Harbour of Tralee*, whereby certain Parties were incorporated and were created One Body Corporate by the Name and Style of "The Commissioners of the Harbour of *Tralee*," (herein-after called "The Canal Commissioners,") for the Purposes of erecting, making, and completing the said Canal and the other Works by such Act authorized and required: And whereas it was by the said recited Act enacted that in case the said Canal and the other Works in and by the said Act authorized and required should not have been completed and made in the Space of Eight Years, to be computed from the passing thereof, then and

9 G. 4.
c. cxviii.

[*Local.*]

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from

*The Tralee Canal Act, 1864.*6 & 7 W. 4.
c. cxiv.4 & 5 Vict.
c. 46.6 G. 4.
c. 35.

from thenceforth all the Powers, Authorities, and Privileges given by the said Act should cease and determine, save only and except as to so much, if any, of the intended Canal, Basin, Dock, Harbour, and other Works therein mentioned as should have been declared and certified to have been completed within the said Term by the Justices of the Peace for the County of *Kerry* assembled at any Quarter Sessions of the Peace to be holden in and for the said County at any Time before the Expiration of the said Term of Eight Years, or within Six Calendar Months next after the Expiration thereof: And whereas another Act was passed in the Sixth and Seventh Years of the Reign of King *William* the Fourth, intituled *An Act to extend the Time limited by an Act passed in the Ninth Year of the Reign of His late Majesty King George the Fourth for improving the Navigation and Harbour of Tralee in the County of Kerry*, whereby, after reciting that the said Commissioners had proceeded in the Execution of the said recited Act and had made great Progress in the cutting, making, forming, and completing the said Canal and other the Works in and by the said Act authorized to be made, and had entered into Contracts in relation to the same, but in order to complete the said Canal and other the Works contemplated by the said Act it was necessary that further Time should be granted for that Purpose, it was enacted that the Time limited by the said first-recited Act for the Completion of the said Canal and the Works authorized to be made under the said first-recited Act should be and the same was thereby extended for the farther Term of Five Years: And whereas another Act was passed in the Fourth and Fifth Years of Her present Majesty's Reign, intituled *An Act to empower the Commissioners for the Issue of Exchequer Bills for Public Works to complete the Works authorized to be made by an Act of the Sixth and Seventh Year of the Reign of His late Majesty King William the Fourth for improving the Navigation and Harbour of Tralee in the County of Kerry, and to extend the Time for that Purpose*, whereby, after reciting that in the Year One thousand eight hundred and thirty-two the said Commissioners of the Harbour of *Tralee* borrowed of the Commissioners for carrying into execution the several Acts passed for authorizing the Issue of Exchequer Bills an Advance of Money for carrying on Public Works and Fisheries and Employment of the Poor, and particularly an Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to render more effectual the several Acts for authorizing the Advances for carrying on Public Works so far as relates to Ireland, the Sum of Six thousand Pounds, and for securing the Repayment thereof with Interest by the Instalments, at the Times and in manner mentioned by the*

Indenture

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Indenture of Mortgage therein-after recited, the said Commissioners of the Harbour of *Tralee* executed to the Secretary of the said Commissioners for the Issue of Exchequer Bills a Mortgage bearing Date the Eighteenth Day of *July* One thousand eight hundred and thirty-two of all and every the Rates, Tolls, Duties, and Receipts, Hereditaments, Chattels, and Property whatsoever of or belonging to the said Commissioners of the Harbour of *Tralee*; and reciting that Default having been made in Payment of certain of the Instalments of Principal and Interest which had become due on the said Mortgage, the said Commissioners for the Issue of Exchequer Bills, in pursuance of the Powers and Provisions of their said Acts, had entered into and were then in possession of the Works and Property of or belonging to the said Commissioners of the Harbour of *Tralee*, and it was expedient, in order to prevent the Loss of the Sum of Five thousand four hundred Pounds, Part of the said Sum of Six thousand Pounds, with the Interest thereon, by reason of the incomplete State of the said Canal and other Works by the said first-recited Act authorized or required to be made and executed, that the same should be completed by the said Commissioners for the Issue of Exchequer Bills for Public Works, but in order thereto it was necessary that further Time should be granted for that Purpose, it was enacted that the Time limited by the said recited Act of the Sixth and Seventh Years of the Reign of King *William* the Fourth for the Completion of the said Canal and other Works by the said first-recited Act authorized and required to be made and executed should be and the same was thereby extended for the further Term of Three Years, to be computed from the Expiration of the said Term of Five Years by the said last-recited Act limited for such Purposes: And whereas another Act was passed in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled *An Act to extend the Time limited by an Act passed in the Fourth and Fifth Years of Her present Majesty empowering the Commissioners for the Issue of Exchequer Bills for Public Works to complete the Works for improving the Navigation and Harbour of Tralee in the County of Kerry*, whereby, after reciting that the said Commissioners for the Issue of Exchequer Bills for Public Works had made great Progress in making and executing the said Canal and other Works by the said First Act authorized or required to be made and executed, but that in order to complete the said Canal and other Works it was necessary that further Time should be granted for that Purpose, it was enacted that the Time limited by the said recited Act of the Fourth and Fifth Years of the Reign of Her present Majesty for the Completion of the said Canal and other Works by the said first-recited Act authorized to be made and executed,

7 & 8 Vict.
c. 99.

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executed, should be and the same was thereby extended for the further Term of Three Years, to be computed from the Expiration of the said Term of Three Years by the said recited Act of the Fourth and Fifth Years of the Reign of Her present Majesty limited for such Purposes: And whereas the said Canal and other Works in the recited Acts mentioned have been made and completed and declared and certified, as by the said Acts required to have been completed, and the Public Works Loan Commissioners representing the said Commissioners for the Issue of Exchequer Bills, as Mortgagees as aforesaid, are in possession of and manage such Canal and Works: And whereas a considerable Sum is now due to the said Public Works Loan Commissioners in respect of Principal Monies borrowed as aforesaid and of Interest thereon: And whereas it is expedient that the Canal Commissioners should be empowered to raise the Sum of Nine thousand Pounds for the Discharge of the said Debt, and other the Purposes of this Act: And whereas the Purposes 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; (that is to say,)

Short Title.

1. This Act may be cited as "The *Tralee Canal Act, 1864.*"

8 & 9 Vict.
c. 18.,
10 & 11 Vict.
cc. 16. & 27.,
14 & 15 Vict.
c. 70., and
23 & 24 Vict.
cc. 97. & 105.
incorporated.

2. "The Commissioners Clauses Consolidation Act, 1847," "The Harbours, Docks, and Piers Clauses Act, 1847," and so much of "The Lands Clauses Consolidation Act, 1845," as is not inconsistent with or altered by "The Railways Act (*Ireland*), 1851," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Act (*Ireland*), 1851," and "The Railways Act (*Ireland*), 1860," shall, so far as the Provisions of the same respectively are applicable to the Purposes of and not expressly varied by or inconsistent with this Act, be incorporated with and form Part of this Act: Provided always, that the Provisions of "The Harbours, Docks, and Piers Clauses Act, 1847," with respect to Lifeboats and with respect to keeping a Tide or Weather Gauge, shall not be in force under or for the Purposes of this Act, unless and until and except only so far as the Board of Trade, by Notice in Writing under the Hand of One of the Secretaries of that Board to the Canal Commissioners, shall require them to conform either wholly or in part to those Provisions respectively.

3. In

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3. In construing this Act and (in connexion with this Act) the Acts incorporated herewith, the following Words and Expressions shall have the respective Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to or inconsistent with such Construction ; (that is to say,)

Interpreta-
tion of
Terms.

The Expression "the Undertakers" in the Harbours, Docks, and Piers Clauses Act, 1847, shall mean the Canal Commissioners :

The Expression "the Undertaking" shall mean the Canal, Basin, Dock, Harbour, and other Works authorized by the recited Act of the Ninth Year of King *George* the Fourth :

The Expression "the Railway" in the Railways Act (*Ireland*), 1851, and the Railways Act (*Ireland*), 1860, shall mean the Works by the recited Act of the Ninth Year of King *George* the Fourth authorized, and the Expression "the Company" in those Acts shall mean the Canal Commissioners :

The Expression "the Public Works Loan Commissioners" in this Act shall include the said Commissioners for the Issue of Exchequer Bills.

4. Except as may by this Act be otherwise provided, the several Words and Expressions to which in the said incorporated Acts Meanings are assigned shall have in this Act the same respective Meanings, unless such Meanings shall be excluded by the Subject or Context.

Same Mean-
ings to
Words in
incorporated
Acts as in
this Act.

5. Upon Payment, on or before the Twenty-fourth Day of *June* One thousand eight hundred and sixty-five by the Canal Commissioners to the Public Works Loan Commissioners, or as they shall by any Writing under the Hand of their Secretary for the Time being direct, of such Sum as the last-mentioned Commissioners shall by any such Writing as aforesaid order to be accepted in discharge of all Principal Money and Interest now due or before the said Twenty-fourth Day of *June* One thousand eight hundred and sixty-five to become due by the Canal Commissioners to the Public Works Loan Commissioners, as such Mortgagees as aforesaid, all the Estate, Rights, Powers, and Authorities of the Public Works Loan Commissioners or their Secretary in or over the said Canal, Basin, Dock, Harbour, and any other Works and Property of the Canal Commissioners, shall, subject to the Provisions of this Act, forthwith become invested in the Canal Commissioners, and thenceforth the Canal Commissioners shall execute and carry into full effect as well the recited Act of the Ninth Year of the Reign of King *George* the Fourth as this Act, and shall become seised and possessed of and entitled to all the Lands, Tenements, Hereditaments, Goods, Chattels,

On Payment
to the Public
Works Com-
missioners of
their Debt.

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Canal Commissioners to represent Exchequer Loan Commissioners, and satisfy all Claims, &c.

and Effects, and all other Real and Personal Estate whatsoever, whereof the Public Works Loan Commissioners or their Secretary, may at the Time of such Payment as aforesaid be seised, possessed, or entitled, as such Mortgagees as aforesaid; and thenceforth the Canal Commissioners shall, with respect to the said Canal, Basin, Dock, Harbour, and other Works and Property, represent and stand in the Place of the Public Works Loan Commissioners, and shall satisfy all such Claims, Demands, and Liabilities as shall accrue in respect of the Premises, and shall perform all such Duties and Obligations as the Public Works Loan Commissioners, immediately before such revesting, shall have been liable to satisfy and perform in respect of the Premises; but before such Revesting shall have taken place, none of the Powers conferred on the Canal Commissioners by this Act, except the Power to borrow on Mortgage, shall be exercised or put in force by them.

Saving of Rights.

6. Notwithstanding such Revesting in the Canal Commissioners as aforesaid, and except only as is by this Act otherwise provided, everything before the Commencement of this Act done and suffered and confirmed respectively under the recited Acts shall be as valid as if this Act were not passed; and such Revesting and this Act respectively shall accordingly be subject and without Prejudice to everything so done, suffered, and confirmed respectively; and to all Rights, Liabilities, Claims, and Demands, both present and future, which, if such Revesting had not happened, and this Act had not been passed, would be incident to and consequent on any and every thing done, suffered, and confirmed respectively.

Byelaws continued.

7. Notwithstanding such Revesting, any Byelaws of the Public Works Loan Commissioners lawfully made before such Revesting with respect to the said Canal, Basin, Dock, Harbour, or Works, shall, for the Purposes of this Act, unless repealed or altered by the Canal Commissioners, continue of full Force as if this Act had not been passed, and such Byelaws may be enforced, and all Proceedings thereon may be continued or taken, and all Penalties thereunder may be recovered accordingly.

Books, &c. continued as Evidence.

8. Notwithstanding such Revesting, all Documents, Books, and Writings by any of the recited Acts directed or authorized to be kept and made receivable in Evidence shall be admitted as Evidence in all Courts of Law and Equity and elsewhere accordingly.

Officers continued.

9. Notwithstanding such Revesting, every Officer and Servant appointed by virtue of or acting under the recited Acts, and employed

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ployed in or about the Management, Working, or User of the said Canal, Basin, Dock, Harbour, or Works, shall hold and enjoy his Office and Employment in that Behalf, with the Salary thereto annexed, and be deemed an Officer and Servant of the Canal Commissioners until he be removed by them from such Office and Employment; and he shall have the like Power and Authority for the Purposes of this Act, and be subject to the like Power of Removal, and to the like Rules, Regulations, Pains, and Penalties, as if he had been appointed by the Canal Commissioners under the said Act of the Ninth Year of the Reign of King *George* the Fourth or this Act.

10. No Action, Suit, Prosecution, or other Proceeding, commenced either by or against the Public Works Loan Commissioners as such Mortgagees as aforesaid before such Revesting in the Canal Commissioners, shall abate or be discontinued or prejudicially affected by such Revesting or by this Act, but shall continue and take effect either in favour of or against the Canal Commissioners as representing the Public Works Loan Commissioners, in like Manner in all respects as if the same had been originally commenced by or against the Canal Commissioners; and all Offences against the Provisions of any of the recited Acts committed either before or after the passing of this Act may be prosecuted by the Canal Commissioners, and all Penalties incurred by reason of such Offences may be sued for by them in like Manner in all respects as by the Public Works Loan Commissioners, or their Secretary, in case this Act had not been passed.

Actions not to abate.

11. All Companies and Persons who immediately before such Revesting shall owe any Monies to the Public Works Loan Commissioners as such Mortgagees as aforesaid, or to any Person on their Behalf, shall pay the same, with all Interest, if any, due or accruing in respect of the same, to the Canal Commissioners, and all Monies which immediately before such Revesting shall be owing by or recoverable from the Public Works Loan Commissioners, or for the Payment of which they shall be liable, shall, with all Interest, if any, due or to accrue thereon, be recoverable from the Canal Commissioners, and shall be paid by the Canal Commissioners out of and shall be a Charge upon all Real and Personal Estate and Effects vested in them as such Commissioners, in Priority to all other Debts and Claims whatsoever.

As to Monies owing to or by the Mortgagees.

12. Not-

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Quorum of
Canal Com-
missioners.

12. Notwithstanding anything in the Fourth Section of the said Act of the Ninth Year of King *George* the Fourth contained, a Quorum of any Meeting of the Canal Commissioners may be Five.

Rates to be
paid for
Ballast.

13. Notwithstanding anything contained in the recited Act of the Ninth Year of King *George* the Fourth, or Schedule C. to that Act annexed, the Rates to be paid to the Canal Commissioners for Ballast shall be as follows :

For every Ton of Ballast furnished and put into any Ship or Vessel ballasted in the Harbour of *Tralee*, outside of the Canal, not exceeding the Sum of Two Shillings and Sixpence :

For every Ton of Ballast furnished and put into any Ship or Vessel ballasted at the appointed Ballast Wharfs or Quays inside the Canal, not exceeding the Sum of One Shilling and Sixpence.

Prevention
of Obstruc-
tions and
Nuisances.

14. The Canal Commissioners may from Time to Time, subject to the Provisions with respect to Byelaws in the Harbours, Docks, and Piers Clauses Act, 1847, contained, make Byelaws and Regulations for preventing Obstructions and the Commission of any Nuisances in or upon any Part of the Wharfs, Quays, or Premises under their Control or Management, and may by the Byelaws so to be made by them impose such reasonable Penalties as they shall think fit, not exceeding Forty Shillings for each Breach of such Byelaws.

Power to
borrow on
Mortgage.

15. Subject and without Prejudice to the Security to the Public Works Loan Commissioners for the Money due to them, the Canal Commissioners may borrow on Mortgage of the Undertaking, or upon the Credit of the Tolls, Rates, and Duties payable under the recited Act of the Ninth Year of King *George* the Fourth and of this Act, any Sum or Sums of Money not exceeding in the whole Nine thousand Pounds.

Arrears may
be enforced,
by Appoint-
ment of a
Receiver.

16. Subject and without Prejudice as aforesaid, the Mortgagees under this Act may enforce the Payment of the Arrears of Principal and Interest due to them by the Appointment of a Receiver, and the Amount to authorize a Requisition for a Receiver shall be One thousand Pounds.

Application
of Monies.

17. All Monies raised by the Canal Commissioners by borrowing under the Powers of this Act shall be applied only to the Purposes of this Act, that is to say, in discharge of the said Debt to the Public Works Loan Commissioners by Payment on or before the Twenty-fourth

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fourth Day of *June* One thousand eight hundred and sixty-five as aforesaid, and other the Purposes of this Act.

18. Nothing contained in this Act or in any of the Acts herein referred to shall authorize the said Canal Commissioners to take, use, or in any Manner interfere with any Land, Soil, Tenements, or Hereditaments, or any Rights of whatsoever Nature belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty first had and obtained for that Purpose, (which Consent such Commissioners are hereby respectively authorized to give,) neither shall anything in the said Act or Acts contained divest, take away, prejudice, diminish, or alter any Estate, Right, Privilege, Power, or Authority vested in or enjoyed or exerciseable by the Queen's Majesty, Her Heirs or Successors.

Saving
Rights of
the Crown.

19. Nothing in this Act contained shall be deemed to exempt the Harbour or the Works of the Canal Commissioners in the River or Harbour from the Provisions of the Merchant Shipping Act, 1854, or of the Merchant Shipping Act Amendment Act, 1855, or of any General Act relating to Harbours or to Dues on Shipping or Goods carried in Ships, or to Pilotage, or to Lights, Buoys, and Beacons, and the Rights and Privileges of the General Lighthouse Authorities now in force or which shall be passed during the present or any future Session of Parliament, or from any Revision or Alteration under the Authority of Parliament of any of the Tolls, Rates, Dues, or Duties authorized by any Act relating to the said Harbour.

Harbour, &c.
not exempt
from Pro-
visions of
General
Acts.

20. The Canal Commissioners may at any Time and from Time to Time, as and where they may think fit, apply to any of the Purposes authorized by this Act any Monies which may come to their Hands under the said Act of the Ninth Year of King *George* the Fourth.

Power to
apply
Monies.

21. All the Costs, Charges, and Expenses of applying for, obtaining, and passing this Act, or preparatory or incidental thereto, shall be paid by the Canal Commissioners out of any Monies which may come to their Hands under the said Act of the Ninth Year of King *George* the Fourth or of this Act, but shall not be paid out of the Rates, Duties, or other Monies to be received or raised by virtue of

Expenses of
Act.

[*Local.*]

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the

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the said Act of the Ninth Year of King *George* the Fourth until after the Public Works Loan Commissioners shall have ceased to be Mortgagees in possession as aforesaid.

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