



CHAPTER i.

An Act to authorise the supply of water from the Shropshire Union Canal and for other purposes.
[21st December 1944.]

WHEREAS a system of canals known as the Shropshire Union Canal is now vested in the London Midland and Scottish Railway Company (in this Act referred to as "the Company") :

And whereas for many years past the Company and their predecessors have afforded a supply of water from the Shropshire Union Canal to the occupiers of adjoining lands and other important users :

And whereas doubts have been raised by the institution of legal proceedings as to the Company's powers in that behalf and it is expedient that the supply should not be interrupted and that the Company should be granted express powers to supply water to the extent authorised by this Act :

And whereas it is expedient that the registers of stock kept by the Company should be conclusive for certain purposes in this Act mentioned and that old stock registers in the possession of the Company should be destroyed :

And whereas it is expedient that the other powers in this Act mentioned should be conferred upon the Company :

And whereas the objects of this Act 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 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 :—

Short title.

1. This Act may be cited for all purposes as the London Midland and Scottish Railway Act 1944.

Interpretation.

2. In this Act unless the subject or context otherwise requires—

“ the Company ” means the London Midland and Scottish Railway Company ;

“ the Shropshire Union Canal ” means the canals formerly belonging to the Shropshire Union Railways and Canal Company which became vested in the Company in virtue of the London and North Western Railway (Shropshire Union Railways and Canal Company) Preliminary Absorption Scheme 1922 the North Western Midland and West Scottish Group Amalgamation Scheme 1922 and the North Western Midland and West Scottish Group Amalgamation Scheme 1923 ;

“ statutory water undertaker ” means any company local authority council committee board or other persons or person supplying water under an enactment.

Supply of water from Shropshire Union Canal.

3.—(1) The Company shall have power and shall be deemed always to have had power to abstract surplus water from the Shropshire Union Canal and to use the same for any purpose of their railway undertaking including any railway undertaking owned jointly with any other company or by any committee upon which the Company are represented.

(2) The Company shall have power for a period of ten years from the date of the passing of this Act to supply surplus water from the Shropshire Union Canal to any person taking a supply of surplus water at the date of the passing of this Act under an agreement or to continue the existing supply to any land or premises to which a supply is being afforded at that date.

(3) The Company in addition to any other power or obligation in that behalf shall have power to supply surplus water from the Shropshire Union Canal otherwise than in bulk for domestic and agricultural purposes to the owner lessee or occupier of any land or premises in respect of which use has before the passing of this Act been made of water from the canal for those purposes.

(4) In this section “ surplus water ” means any water not required for maintaining a supply of water for the purposes of navigation.

(5) Nothing in this section shall prejudice or affect the operation of section 181 (Company required to restore to the river Dee the same quantity of water as shall have been taken therefrom) of the Act 7 & 8 Geo. IV. cap. cii intitled “ An Act to amend and enlarge the powers and provisions of the several Acts relating to the Ellesmere and Chester Canal Navigation.”

(6) Nothing in this Act shall constitute the Company a water company within the meaning of the Gas and Water Works Facilities Act 1870 or statutory water undertakers within the meaning of section 142 of the Public Health Act 1936.

33 & 34 Vict.
c. 70.
26 Geo. 5.
& 1 Edw. 8.
c. 49.

4.—(1) The Company shall not by means of the sluices and other works situate in the parish of Llantysilio in the county of Denbigh abstract a greater quantity of water from the river Dee than twelve million five hundred thousand gallons in any one day of twenty-four hours or one thousand and thirty-five million gallons in the aggregate in any period of ninety days during the next ten years after the passing of this Act and after the termination of the said period of ten years seven million two hundred and fifty thousand gallons in any one day of twenty-four hours or five hundred and sixty-two million gallons in the aggregate in any period of ninety days.

Limitation on
abstraction of
water from
river Dee.

(2) The provisions of this section shall not operate to prevent the Company from abstracting a quantity of water in excess of the limitations imposed by this section in case of emergency or for refilling the Shropshire Union Canal after repairs. Any question whether an emergency has arisen or whether the taking of further water for refilling the canal is reasonable may be referred by any interested party to and shall be determined by the Minister of Agriculture and Fisheries who may specify the amount of such additional quantity and the period for which it may be taken.

5. For the purpose of measuring the quantity of water abstracted from the river Dee at Llantysilio the Company shall as soon as practicable after the passing of this Act construct and maintain a proper and suitable gauge for automatically and continuously recording the volume of water flowing through or over the said gauge. The said gauge shall be constructed in such place and according to such design as shall be approved by the Minister of Agriculture and Fisheries and the same and the records thereof shall be open to the inspection and examination of all persons interested in the flow of the said river including the River Dee Catchment Board and the Board of Conservators of the River Dee Fishery District or their accredited representatives and such persons and representatives as aforesaid may take copies of or extracts from the records of the said gauge.

Measuring
gauges.

6. The Company shall maintain in good order sluices and other works controlling the outfall from Bala Lake and a gauge for measuring the quantity of water discharged from Bala Lake and keep daily records of such quantity and such gauge and the records thereof shall be open to the inspection and examination of all persons interested in the flow of the river Dee including the River Dee Catchment Board and the Board of Conservators of the River Dee Fishery District or their accredited representatives and such persons and representatives may take copies of or extracts from the records of the said gauges.

As to works
at Bala
Lake.

For protection
of Board of
Conservators
for River
Dee Fishery
District.

7. For the protection of the Board of Conservators for the River Dee Fishery District the following provision shall unless otherwise agreed in writing between the said board and the Company have effect:—

So far as may be reasonably practicable and having regard to the purposes for which they were provided the sluices at the outfall at Bala Lake shall be so regulated by the Company that the flow therefrom shall be continuous and that the fluctuations in the flow resulting from such regulation shall be gradual and shall be reduced to a minimum.

Company to
inspect gauges
at Llantysilio.

8. The Company shall inspect the gauges at Llantysilio each day and shall record the time of such inspection and if any adjustment or regulation of the sluices or regulators at the outfall of Bala Lake shall be necessary for the purpose of complying with the provisions of the Act 7 and 8 Geo. IV. cap. cii with respect to the quantity of water to be drawn down into the river Dee any such adjustment or regulation shall be made within a period of twenty-four hours after such inspection.

Repeal of
section 182
of Act of 1827.

9. Section 182 of the Act 7 and 8 Geo. IV. cap. cii intituled "An Act to amend and enlarge the powers and provisions of the several Acts relating to the Ellesmere and Chester Canal Navigation" is hereby repealed and section 181 of that Act shall be read and have effect as if the reference therein to the locks and weirs at New Martin Moor had been omitted therefrom.

Penalties.

10. If the Company—

- (1) fail to construct or maintain in good order a gauge at Llantysilio or to maintain in good order a gauge at Bala Lake as required by this Act or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or
- (2) take any water from the river Dee or discharge any water from Bala Lake contrary to the provisions of this Act or the Act 7 and 8 Geo. IV. cap. cii;

they shall without prejudice to their civil liability if any to a person aggrieved be liable in the case of an offence under paragraph (1) of this section to a fine not exceeding fifty pounds in respect of each day on which the offence has been committed or has continued and in the case of an offence under paragraph (2) of this section—

- (a) on summary conviction to a fine not exceeding fifty pounds in respect of each such day; and
- (b) on conviction on indictment to a fine not exceeding five hundred pounds in respect of each such day.

11. The provisions of the Town and Country Planning Act 1932 (in this section referred to as "the Act of 1932") the Town and Country Planning (Interim Development) Act 1943 and any interim development order or scheme made under either of those Acts or under any enactment repealed by the Act of 1932 and for the time being in force shall have effect with reference to the powers in this Act contained as if this Act had been passed before the commencement of the Act of 1932.

Application of
Town and
Country
Planning Acts
&c.
22 & 23 Geo. 5.
c. 48.
6 & 7 Geo. 6.
c. 29.

12. For the protection of the River Severn Catchment Board the Severn Commissioners and the Board of Conservators of the Severn Fishery District the following provisions shall unless otherwise agreed in writing between those bodies on the one hand and the Company on the other hand have effect:—

For protection
of River
Severn
Catchment
Board Severn
Commissioners
and Board of
Conservators
of Severn
Fishery
District.

(1) In this section "the Penarth weir" means the weir constructed across the river Severn in the urban district of Newtown and Llanllwchaiarn in the county of Montgomery:

(2) The Company shall not under the powers of section 3 (Supply of water from Shropshire Union Canal) of this Act use for any purpose of their railway undertaking any surplus water as defined in that section or abstract or permit the abstraction of water from the Shropshire Union Canal for the purposes of any supply not being taken at the date of the passing of this Act or afforded pursuant to any agreement (which term where used in this and the two next following sections of this Act means an agreement whether written or oral) or extended agreement to which sanction is given by a consent under subsection (2) or by the award of an arbitrator under subsection (3) of section 13 (Restrictions on supplies of water) of this Act if and so long as such use or abstraction would involve the taking into the said canal of water from the river Severn for those and other purposes—

(a) at any time when the depth of water flowing over the crest of the upper section of the Penarth weir is less than three inches; or

(b) to such an extent as to reduce the depth of such flow to less than such minimum depth.

13. For the protection of the River Severn Catchment Board the Severn Commissioners the Board of Conservators of the Severn Fishery District and the West Midlands Joint Electricity Authority (which boards commissioners and authority are in this section together referred to as "the protected authorities") the following provisions shall unless otherwise agreed in writing between the

Restrictions
on supplies of
water.

Company on the one hand and the protected authorities on the other hand have effect :—

- (1) During the months of July August September and October in any year and at any other time during a period of unusual drought the Company shall not under any agreement existing at the date of the passing of this Act supply from any part of the Shropshire Union Canal which is for the time being directly or indirectly supplied with water from the river Severn or any tributary thereof any greater quantity of surplus water in any period of twenty-four hours than the maximum quantity of such water which the consumer is permitted to take in that period under that agreement or any extension thereof to which sanction is given by a consent under subsection (2) or by the award of an arbitrator under subsection (3) of this section :
- (2) The Company shall not except with the consent in writing of the protected authorities (which consent shall not be unreasonably withheld) enter into any agreement as defined in section 12 of this Act to afford a supply of surplus water not being a supply taken at the date of the passing of this Act or extend the provisions of any such existing agreement as aforesaid so as to provide for an increased supply of such water :
- (3) If any difference shall arise under this section between the Company on the one hand and the protected authorities on the other hand such difference shall be referred to and determined by an arbitrator to be agreed upon between the parties to such difference or failing agreement to be appointed on the application of any of the said parties after notice in writing to the others of them by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

For further protection of Severn Commissioners and Board of Conservators of Severn Fishery District.

14. For the further protection of the Severn Commissioners and the Board of Conservators of the Severn Fishery District the following provisions shall unless otherwise agreed in writing between those bodies on the one hand and the Company on the other hand have effect :—

- (1) In this section " the Carreghofa weir " means the lowest sill of the weir constructed across the river Tanat in the parish of Carreghofa in the county of Montgomery and in the parish of Llanyblodwel in the county of Salop :
- (2) The Company shall not under the powers of section 3 (Supply of water from Shropshire Union Canal) of this Act use for any purpose of their railway undertaking any

surplus water as defined in that section or abstract water or permit the abstraction of water from the Shropshire Union Canal for the purpose of any supply not being taken at the date of the passing of this Act or afforded or supplied pursuant to any agreement as defined in section 12 of this Act or extended agreement to which sanction is given by a consent under subsection (2) or by the award of an arbitrator under subsection (3) of section 13 (Restrictions on supplies of water) of this Act if and so long as such use or abstraction would involve the taking into the said canal of water from the river Tanat for those and other purposes—

(i) at any time when the depth of water flowing over the crest of the Carreghofa weir is less than five inches ;
or

(ii) to such an extent as to reduce the depth of such flow to less than such minimum depth.

15. For the protection of the West Cheshire Water Board (in this section referred to as “ the board ”) the following provisions unless otherwise agreed between the Company and the board shall apply and have effect :—

For protection
of West
Cheshire Water
Board.

The Company shall not in pursuance of the provisions of section 3 (Supply of water from Shropshire Union Canal) of this Act supply any water other than unpurified water to any person for use within or to any land or premises within the limits of supply of the board nor otherwise than as expressly authorised by this Act exercise any of the powers of water undertakers within the limits of supply of the board.

16. For the protection of the West Midlands Joint Electricity Authority (in this section referred to as “ the authority ”) the following provisions shall unless otherwise agreed in writing between the authority and the Company have effect :—

For protection
of West
Midlands Joint
Electricity
Authority.

(1) In this section—

“ the Penarth weir ” means the weir constructed across the river Severn in the urban district of Newtown and Llanllwchaiarn in the county of Montgomery ;

“ the Carreghofa weir ” means the lowest sill of the weir constructed across the river Tanat in the parish of Carreghofa in the county of Montgomery and in the parish of Llanyblodwel in the county of Salop ;

“ the canal ” means the Shropshire Union Canal ;

“ The Newtown section of the canal ” means the part of the canal from Newtown in the county of Montgomery to Aston Bottom lock in the county of Salop including the branch to Guilsfield ;

“ the existing intakes ” means the intake at the pumping station at Newtown the intake in the left bank of the river Severn upstream of the Penarth weir and the intake of the river Tanat upstream of the Carreg-hofa weir :

- (2) The Company shall not use for any purpose of their railway undertaking any surplus water as defined in section 3 (Supply of water from Shropshire Union Canal) of this Act or abstract or permit the abstraction of water from the canal for the purposes of any supply not being taken at the date of the passing of this Act or afforded pursuant to any agreement (which term when used in this section means an agreement or licence whether written or oral) or extended agreement to which sanction is given by a consent under subsection (2) or by the award of an arbitrator under subsection (3) of section 13 (Restrictions on supplies of water) of this Act if and so long as such use or abstraction would involve the taking into the said canal of water for those and other purposes—
- (a) from the river Severn—
- (i) at any time when the depth of water flowing over the crest of the upper section of the Penarth weir is less than three inches ; or
- (ii) to such an extent as to reduce the depth of such flow to less than such minimum depth ; or
- (b) from the river Tanat—
- (i) at any time when the depth of water flowing over the crest of the Carreghofa weir is less than five inches ; or
- (ii) to such an extent as to reduce the depth of such flow to less than such minimum depth :
- (3) The Company shall not construct any new intake additional to the existing intakes or enlarge the existing intakes or any of them for abstracting or causing or enabling to flow into the canal water from the river Severn or any river or stream flowing directly or indirectly into that river :
- (4) Except with the consent of the authority (which consent shall not be unreasonably withheld) the Company shall not under the powers conferred by subsection (1) of section 3 (Supply of water from Shropshire Union Canal) of this Act abstract surplus water from the Newtown section of the canal except for use on a railway system (as existing at the date of the passing of this Act) belonging at that date to the Company or the Company jointly

with any other company or to any committee on which the Company is represented Provided always that—

(a) for the purposes of this subsection water shall not be deemed to be abstracted if it is returned to the Newtown section of the canal or to the river Severn above the generating station of the authority at Buildwas ;

(b) any such water if returned to the river Severn shall be so returned as not to affect materially the even and continuous flow of water in that river ;

(c) any such water if not returned to the Newtown section of the canal shall if reasonably practicable be measured at the point of abstraction and at the point at which it is returned to the river Severn or a tributary thereof by means of automatically recording meters to be provided and maintained in proper working order by the Company which meters and the records thereof shall at all reasonable times be open to the inspection of and copies of or extracts from the said records may be taken by the authority or any person authorised by them :

- (5) Any difference which may arise under subsection (4) of this section between the Company and the authority shall be referred to and determined by an arbitrator to be agreed upon between the parties to the difference or failing agreement to be appointed on the application of either of the said parties (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

17. For the protection of the Chester Waterworks Company (in this section referred to as "the water company") the following provisions unless otherwise agreed between the Company and the water company shall apply and have effect :—

For protection of Chester Waterworks Company.

The Company shall not in pursuance of the provisions of section 3 (Supply of water from Shropshire Union Canal) of this Act supply any water other than unpurified water to any person for use within or to any land or premises within the limits of supply of the water company nor otherwise than as expressly authorised by this Act exercise any of the powers of water undertakers within the limits of supply of the water company.

18. Except in the case of a director retiring by rotation and offering himself or being proposed for re-election and except in the case of a director being elected by the board of directors to fill a casual vacancy no person shall be capable of being elected a

Notice of candidature for office of director.

director of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary of the Company or left at the principal office of the Company twenty-one days at least before the day of election.

Company's
registers
conclusive.

19.—(1) As between the Company and any person claiming to be entitled to stock or debenture stock in the Company in virtue of the holding by himself or his predecessors in title of stock shares debentures debenture stock or any other holding in the share or loan capital of any company amalgamated with vested in or absorbed by the Company or any predecessors of the Company prior to the passing of this Act the registers of stock or debenture stock as the case may be kept by the Company shall be conclusive.

(2) (a) The Company may destroy the registers of any company amalgamated with vested in or absorbed by the Company or any predecessor of the Company prior to the passing of this Act.

(b) In this subsection "registers" means the registers and books described in the first column of the schedule to this Act and kept pursuant to the Acts set out in the second column of the said schedule relating thereto respectively.

Savings bank.
14 & 15 Geo. 5.
c. liv.

20. From and after the passing of this Act section 61 (Savings bank) of the London Midland and Scottish Railway Act 1924 shall be read and construed as if the following paragraph were substituted for paragraph (4) (e) of the said section:—

"(e) For the balancing of the accounts once a year at least and the sending to the registrar within three months of a date to be fixed by the rules of a general statement (to be called "the annual return") of the receipts and expenditure funds and effects of the savings bank as audited and made out to the said date together with a copy of the auditor's report (if any)".

Provision as to
general railway
Acts.

21. Nothing in this Act contained shall exempt the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the passing of this Act or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Extent of Act.

22. This Act shall not extend to Scotland or Northern Ireland.

Costs of Act.

23. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

The SCHEDULE referred to in the foregoing Act.

Description.	Act.
Register of loan notes	Railway Regulation Act 1844 section 21.
Register of shareholders	Companies Clauses Consolidation Act 1845 section 9.
Shareholders' address book	Ditto section 10.
Register of transfers	Ditto section 15.
Register of mortgages and bonds... ..	Ditto section 45.
Register of transfers of stock	Ditto section 62.
Register of holders of consolidated stock	Ditto section 63.
Register of debenture stock	Companies Clauses Act 1863 section 28.

Ch. i.

*London Midland and Scottish
Railway Act, 1944.*

8 & 9 GEO. 6.

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