

**CHAPTER xxxiii.**

An Act for conferring further powers upon the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation and for other purposes. A.D. 1903.

[30th June 1903.]

WHEREAS under or by virtue of the several Acts or some of the Acts mentioned in the Schedule to this Act (hereinafter referred to as “the Company’s Acts”) powers have from time to time been conferred upon the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation (in this Act called “the Company”):

And whereas under or by virtue of the Staffordshire and Worcestershire Canal Act 1875 (hereinafter referred to as “the Act of 1875”) the then existing shares in the Company were consolidated and converted into stock and the capital of the Company now consists of the sum of two hundred and ten thousand pounds of stock created under the authority of that Act:

And whereas by the Act of 1875 after reciting (inter alia) certain Acts under which the Company were empowered to lend or advance to the Commissioners appointed by the Act (local and personal) 5 & 6 Victoria cap. 24 being an Act for improving the navigation of the River Severn (therein and in this Act called “the Severn Commissioners”) certain sums of money therein mentioned and to raise the money so to be lent or advanced on the security of their own undertaking and that there then remained due on the security of the mortgages granted by the Company in pursuance of the before-mentioned powers the principal sum of two hundred and four thousand pounds it was (by section 9 of the said Act) provided that the Company might create debenture stock to the said amount of two hundred and four thousand pounds and might issue the same

A.D. 1903. in lieu of or in exchange for or instead of the renewal of the mortgages granted by them under the provisions of the Acts therein recited or any of them And it was further provided by the same section that when and as from time to time the Company should receive from the Severn Commissioners or (as provided by a certain agreement recited in the Act of 1875) from the Great Western Railway Company any money in or towards repayment of the sums advanced by the Company to the said Commissioners they should apply the same either in redemption of the Company's mortgages or in the purchase or redemption of their debenture stock according to the terms and conditions on which the same was issued and that the stock so purchased or redeemed should thereupon be cancelled and that the Company should not reissue the same or issue any other debenture stock in lieu thereof :

And whereas in pursuance of the powers conferred upon them by the Act of 1875 the Company created and issued debenture stock to the amount of two hundred and four thousand pounds but the amount thereof has been from time to time reduced in pursuance of the provisions of section 9 of the said Act and the debenture stock of the Company now amounts to the sum of ninety-two thousand nine hundred and eighty-four pounds :

And whereas there is now due and owing to the Company from the Severn Commissioners the principal sum of sixty-five thousand six hundred and forty-three pounds two shillings secured by mortgages granted by the Severn Commissioners :

And whereas the Company in the year one thousand eight hundred and sixty-one in manner prescribed by the Act 8 & 9 Victoria cap. 42 intituled "An Act to enable Canal Companies to become carriers of goods upon their Canals" (in this Act referred to as "the Carrying Act 1845") adopted the powers and provisions of that Act and for some time acted as carriers accordingly but eventually disposed of their carrying fleet and the carrying business on the Company's canals and on the River Severn has now for many years past been carried on by carrying companies and bye-traders :

And whereas it is expedient for the purpose of enabling the Company to exercise the powers of the Carrying Act 1845 that they should be in a position to acquire the tugs trows boats rolling-stock appliances works and conveniences of any company carrying goods and merchandise on the River Severn and the navigations communicating therewith and for those and other purposes to raise further sums of money but such further sums of

money cannot be advantageously raised by the creation and issue of ordinary or preference stock and it is therefore expedient that the Company should be authorised to raise such moneys by the creation and issue of debenture stock as provided by this Act : A.D. 1903.

And whereas it is expedient that the Company should be authorised to subscribe for or acquire and hold shares stocks or securities of any company carrying goods and merchandise on the River Severn and the navigations communicating therewith :

And whereas by an Act passed in the forty-third year of the reign of King George the Third intituled “ An Act for extending “ and making the Horse Towing Path or Road on the banks of the “ River Severn from Bewdley Bridge in the County of Worcester to “ the deep water at Diglis below the City of Worcester ” (in this Act referred to as “ the Towing Path Act ”) the Company of Proprietors of the River Severn Horse Towing Path Extension (in this Act called “ the towing-path company ”) were incorporated for the purpose of making the towing-path and works therein mentioned or referred to :

And whereas the maintenance of the said towing-path and works is of great importance to the Company and it is expedient that they should be authorised to contribute moneys towards such maintenance and repair as provided by this Act :

And whereas the canal known as the Hatherton Branch Canal with the reservoir locks and works connected therewith was constructed many years ago by the Company out of their revenues on lands acquired by agreement and it is expedient that provision should be made as contained in this Act for constituting the said canal and works part of the undertaking of the Company and otherwise in relation thereto :

And whereas the mayor aldermen and burgesses of the borough of Wolverhampton (in this Act called “ the corporation ”) are the owners of waterworks for supplying water within the said borough and the neighbourhood thereof and the said waterworks include the works at Tettenhall constructed under the powers of the Wolverhampton Waterworks Act 1845 and under the provisions of section 10 of the Wolverhampton Waterworks Act 1850 the corporation are entitled to excavate sink bore tunnel and pump and carry on any works at Tettenhall at a greater depth than the depth of eighteen feet below the top water level of the Company’s canal at or near Tettenhall Bridge (the limit of depth named in the Wolverhampton Waterworks Act 1845) but not so as to abstract any water from the Company’s canal to the prejudice of the

A.D. 1903. Company and by section 11 of the said Act of 1850 it is provided that no further excavations or deepening of the works at Tettenhall shall be made unless with the consent of the canal company and it is expedient that the Company should give such consent upon and subject to the terms and conditions hereinafter set forth :

And whereas the objects aforesaid 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 Staffordshire and Worcestershire Canal Act 1903 and the several Acts mentioned in the Schedule to this Act and this Act may be cited together as the Staffordshire and Worcestershire Canal Acts 1766 to 1903.

Incorporating provisions of general Act. **2.** The provisions contained in Part III. (relating to debenture stock) of the Companies Clauses Act 1863 are subject to the provisions of this Act incorporated with and form part of this Act.

Powers to purchase tugs &c. and to take shares in carrying companies. **3.** The Company may purchase hire or acquire all or any part of the tugs trows boats rolling-stock appliances works conveniences property and effects of any company carrying goods and merchandise on the River Severn and the navigations communicating therewith and may subscribe for or take purchase or acquire and hold any shares stocks mortgages debentures debenture stock or other securities of any such company and may lend money on any such securities and may enter into and carry into effect agreements with any such company with respect to all or any of the matters aforesaid and the Company may apply to the purposes aforesaid or any of them any of the moneys which they are by this Act authorised to raise.

Power to create debenture stock. **4.** The Company may subject to the provisions of Part III. of the Companies Clauses Act 1863 create and issue debenture stock to any amount not exceeding thirty thousand pounds upon and subject to the terms following (that is to say) :—

(1) Notwithstanding anything in that Act contained all debenture stock created by the Company in pursuance of the powers of the Act of 1875 and subsisting at the passing thereof and the interest thereon shall have priority over any debenture stock created under the powers of this Act and the interest thereon :

(2) The Company may create and issue debenture stock under the powers of this Act with the benefit of a special lien or charge on the tugs trows boats and rolling-stock purchased or acquired by the Company under the authority of this Act: A.D. 1903.

(3) Money applicable to the purchase redemption and cancellation of debenture stock under the provisions of the Act of 1875 shall not be applied to the purchase or redemption of the debenture stock to be created under the powers of this Act so long as any part of such first-mentioned debenture stock remains unredeemed.

5. All moneys raised under this Act shall be applied only to the purposes to which they are by this Act specially made applicable and to the general purposes of the Company to which capital is properly applicable. Application
of moneys.

6. The Company may from time to time contribute and pay to the towing-path company such annual or other sums of money for or towards the maintenance by the towing-path company of their towing-path and other property and works upon and subject to such terms and conditions as may be agreed between the Company and the towing-path company. Power to
contribute to
maintenance
of Severn
towing-path.

7.—(1) On and after the passing of this Act the canal known as the Hatherton Branch Canal in the county of Stafford and the reservoir locks and other works connected therewith shall be and be deemed to be part of the undertaking of the Company for all purposes and the provisions of the Company's Acts and of the Canal Tolls and Charges No. 3 (Aberdare &c. Canals) Order Confirmation Act 1894 shall so far as applicable extend and apply to the said canal accordingly as if the same had formed part of the undertaking of the Company authorised by the Company's Acts. Hatherton
Branch
Canal to
form part of
Company's
undertaking.

(2) On the passing of this Act all lands buildings and property or estates rights or interests therein (if any) which immediately prior to the passing of this Act were vested in or held by any person or persons in trust for or on behalf of the Company in connection with or for the purposes of the said branch canal shall by virtue of this Act be vested in and may be held by the Company for the like estate or interest for which they were respectively vested in or held by such person or persons immediately prior to the passing of this Act.

8. The Company may consent to such further excavations and deepening of the works of the corporation at Tettenhall as the Company
may consent
to deepening

A.D. 1903. corporation shall find necessary for the purposes of their water supply upon and subject to the terms and conditions hereinafter set forth and the Company and the corporation shall observe and perform the said terms and conditions accordingly (that is to say) :—
—
of Corpora-
tion water-
works at
Tettenhall.

- (1) If at any time after the corporation commence to pump water from a lower depth than that authorised by the Wolverhampton Waterworks Act 1845 any leakage shall be shown to occur through the bed of the canal or any injury or damage caused by subsidence not due to any act omission or default done or omitted after the passing of this Act of the Company or their agents workmen or servants shall happen to any part of the canal or towing-path locks lockhouses or other works between and inclusive of Wightwick top lock and the Shropshire Union Junction at Atherley such leakage injury or damage shall be forthwith from time to time amended and repaired by the Company at the cost in all things of the corporation including if necessary the rebuilding of the Wightwick and Compton locks puddling the canal and raising the towing-path :
- (2) The Company shall give notice to the corporation of any works necessary for amending and repairing any such leakage injury or damage and in case of any difference of opinion as to such leakage injury or damage being due to any act omission or default of the Company or their agents servants or workmen as aforesaid or as to the necessity for the said works or the mode of executing the same the matter in difference shall unless otherwise agreed be determined by an engineer to be appointed on the application of either party by the Board of Trade Provided that in cases of emergency when danger or interruption of traffic may result the Company's engineer may proceed forthwith with the works in his discretion on such notice being given :
- (3) The corporation shall pay to the Company the sum of five thousand pounds which may be used and applied by the Company to any of the purposes of their undertaking The said sum shall be payable immediately on the corporation commencing to use for the purpose of their water supply the water pumped or taken from any bore-hole made by the corporation either directly or by connection with the existing well or from any deepened well or works and such payment shall be accepted by the Company in satisfaction of all claim whatsoever other than in respect of the amendment and

repair of the canal and works as is hereinbefore provided for and any compensation provided for by subsection (5) of this section. Provided that for the purpose of this subsection water pumped into the Tettenhall reservoir by permission of the Company during the testing of the quantity and quality of the water shall not be taken to be water used for the purpose of their water supply. Provided also that the aggregate of the periods of such pumping does not exceed seventy-five days of twenty-four hours each within a period of six months from the commencement of such pumping :

- (1) Each bore-hole and well to be sunk or made or deepened as aforesaid shall be effectually lined or cased to a depth from the top of at least three hundred feet :
- (5) Nothing in this Act shall affect the agreement dated the eleventh day of February one thousand eight hundred and eighty-six made between the corporation of the one part and the Company of the other part with respect to the Wrottesley Brook and the Barnhurst Feeder and the corporation shall indemnify the Company against any claims for compensation by the corporation or their tenant of Pendeford mill or the owners or occupiers of the Pendeford estate :
- (6) The Company shall abstain from carrying on any pumping operations within a radius of two miles of the bore-hole or deepened well at Tettenhall which might affect the flow of water into such bore-hole or well :
- (7) The right of entry and inspection given to the Company by the Wolverhampton Waterworks Act 1845 shall apply to any works executed by the corporation as aforesaid. The corporation shall have the like right of entry and inspection in respect of any works executed by the Company under subsections (1) and (2) of this section.

9. Whereas a further excavation or deepening of the works of the corporation at Tettenhall may wholly or partially drain wells and springs situate beyond the circle of one thousand yards from the works mentioned in section 23 of the Wolverhampton Waterworks Act 1845 as made binding against and in favour of the corporation by the Wolverhampton Improvement Act 1869. Therefore the provisions of the said section 23 shall apply and have effect as if such further excavation or deepening were works proposed to be executed under the powers of the said Act of 1845

Extension of
section 23 of
Act of 1845.

A.D. 1903. and as if the area within the urban district of Tettenhall and the rural district of Seisdon within a radius of two miles from the said works of the corporation were substituted in the said section 23 for the circle of one thousand yards therein mentioned and as if the corporation were mentioned in lieu of the Company in that section Provided that—

- (1) The provisions of this section shall not apply when the water is abstracted only from a bore-hole for the purpose of testing the quantity or quality of the water for a period of twelve months from the commencement of the sinking of the bore-hole :
- (2) The provisions of the said section 23 as extended by this section shall not apply in respect of messuages or buildings not in existence or already supplied with water by the corporation before they commence to abstract water for the purposes of supply from the excavations or deepening of their works at Tettenhall as aforesaid :
- (3) No obligation shall be imposed upon the corporation in respect of any well or spring used solely or principally for domestic purposes while so polluted as to be injurious to health and if any question shall arise as to whether any such well or spring is so polluted as aforesaid the same shall be determined by a person to be appointed by the Local Government Board whose reasonable costs and expenses as certified by that Board shall be paid by the corporation :
- (4) The corporation shall not be under any obligation to supply water in pursuance of the said section 23 or of this section or be liable to the payment of any penalty or damages for neglect or refusal to supply when they are prevented from supplying water by frost unusual drought or other unavoidable cause or accident :
- (5) At any time and from time to time after the passing of this Act the corporation may inspect and test any wells or springs within the area aforesaid and for that purpose may enter upon the land and premises upon which any such well or spring is situate :
- (6) For the purpose of enabling the corporation to afford a supply of water in pursuance of the said section 23 or of this section they may exercise any powers for the time

being vested in them in regard to the laying down construction repair maintenance renewal and user of mains pipes works and apparatus : A.D. 1903.

Provided that the owner and occupier of any premises supplied with water by the corporation in pursuance of the said section 23 or of this section shall afford to the corporation all reasonable or necessary facilities for laying down constructing repairing maintaining and renewing such mains pipes works or apparatus upon the lands of such owner or occupier :

(7) The provisions of Part VII. (Water) of the Wolverhampton Improvement Act 1869 and of any regulations made thereunder so far as the same are applicable and are not inconsistent with the said section 23 or this section shall extend and apply *mutatis mutandis* to a supply of water in pursuance of the said section 23 or of this section.

10. Any sum payable by the corporation under the provisions of this Act shall be deemed to be payable for the purposes of their water undertaking and the corporation may exercise in regard thereto the borrowing powers conferred upon them by the Wolverhampton Improvement Act 1869 and the Wolverhampton Corporation Act 1891. Application
of funds by
corporation.

11. 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. Costs of Act.

A.D. 1903. The SCHEDULE referred to in the foregoing Act.

COMPANY'S ACTS.

| Reference to and Title of Act. | Year when passed. |
|--|-------------------|
| 6 George III. cap. xvii.—“An Act for making and maintaining a navigable cut or canal from the River Severn between Bewdley and Tipton Brook in the County of Worcester to cross the River Trent at or near Heywood Mill in the County of Stafford and to communicate with a canal intended to be made between the said River Trent and the River Mersey” | 1766 |
| 10 George III. cap. ciii.—“An Act to explain and amend an Act made in the sixth year of the reign of His present Majesty intituled an Act for making and maintaining a navigable cut or canal from the River Severn between Bewdley and Tipton Brook in the County of Worcester to cross the River Trent at or near Heywood Mill in the County of Stafford and to communicate with a canal intended to be made between the said River Trent and the River Mersey and for granting further powers for that purpose” | 1770 |
| 30 George III. cap. lxxv.—“An Act to enable the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation to improve the navigation of the River Severn from Stourport in the County of Worcester to a place called Diglis near the City of Worcester” | 1790 |
| 6 Victoria, cap. v.—“An Act to enable the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation to lend certain sums of money to the Commissioners for the improvement of the navigation of the River Severn and to guarantee the repayment of the amount of any loans which any other persons or bodies shall make to such Commissioners and to guarantee the performance of contracts into which such Commissioners shall enter and to borrow money for such purposes” | 1843 |
| 38 Victoria, cap. xliv.—“An Act to empower the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation to convert their share capital into stock and to create and issue debenture stock and for other purposes” | 1875 |

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