



**CHAP. lxxxiii.**

An Act for vesting in the Great Western Railway Company the undertaking of the Company of Proprietors of the Herefordshire and Gloucestershire Canal Navigation ; and for other purposes. A.D. 1870.  
[4th July 1870.]

**W**HEREAS by an Act passed in the thirty-first year of the reign of His Majesty King George the Third, entitled “ An Act for making and maintaining a navigable Canal from the City of Hereford to the City of Gloucester, with a collateral Cut from the same to the Town of Newent in the County of Gloucester,” a company (in this Act called “ the Canal Company ”) was incorporated by the name and style of the Company of Proprietors of the Herefordshire and Gloucestershire Canal Navigation, with power to make and maintain the canal and works in that Act described : 31 G. 3.  
c. lxxxix.

And whereas in the thirty-third year of the reign of His said late Majesty and in the second and third years of the reign of Her present Majesty other Acts were passed relating to the Canal Company and their undertaking : 33 G. 3.  
c. cxix.  
2 & 3 Vict.  
c. xxvi.

And whereas the Canal Company and the Great Western Railway Company (in this Act called “ the Company ”) have subject to the approval of Parliament agreed, and it is expedient that the undertaking of the Canal Company should be vested in the Company :

And whereas such vesting 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,)

1. This Act may be cited for all purposes as “ The Great Western Railway (Hereford and Gloucester Canal Vesting) Act, 1870.” Short title.



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Interpreta-  
tion of  
terms.

2. In this Act the several words and expressions following have the meanings herein-after assigned to them respectively, unless there be something in the subject or context repugnant to such construction :

The expression "the Company" means the Great Western Railway Company :

The expression "the Canal Company" means the Company of Proprietors of the Herefordshire and Gloucestershire Canal Navigation :

The expression "the canal rentcharge" means the annual sum of money by this Act made payable by the Company to the Canal Company :

The expression "superior courts," or "court of competent jurisdiction," or any other like expression in this Act, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Undertak-  
ing of Canal  
Company  
vested in  
Company.

3. On and after the passing of this Act all the undertaking, canals, cuts, basins, locks, bridges, buildings, wharves, lands, works, conveniences, plant, property, and effects of the Canal Company, with all their incidents and appurtenances, and all the rights, powers, and privileges of the Canal Company, except as by this Act otherwise provided, (which premises are in this Act referred to as "the canal,") are by this Act as from the thirty-first day of July one thousand eight hundred and seventy inclusive (in this Act called "the vesting period") vested in the Company: Provided always, that all moneys in the hands of the Canal Company on that day shall belong to the Canal Company, and the Canal Company shall pay and discharge all debts and liabilities due from or owing by them, and all wayleaves and rentcharges theretofore or thereafter accruing in respect of the canal; and all the provisions of this Act with respect to the substitution of the Company for the Canal Company, and the transfer to the Company of the duties, obligations, and liabilities of the Canal Company, and otherwise, shall be read and construed accordingly: Provided also, that within three months from the passing of this Act the Company shall produce to the Commissioners of Inland Revenue a copy of this Act, printed by Her Majesty's Printer, and duly stamped with the ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance of the undertaking of the Canal Company for the consideration in this Act mentioned to be paid by the Company; and if the said Company shall not, within the said period of three months, produce to the said Commissioners



such copy of this Act duly stamped as aforesaid, the ad valorem stamp duty shall be recoverable from the Company, with full costs of suit and all costs and charges attending the same. A.D. 1870.

4. On and after the passing of this Act and as from the vesting period all the rights, powers, privileges, authorities, duties, liabilities, obligations, and indemnities of the Canal Company and their committee of management, officers, and servants, with respect to the maintenance, management, regulation, receipt, and enjoyment of the canal and the traffic thereon, and the tolls, fares, rates, and charges payable to the Canal Company, shall apply to and be had, exercised, performed, observed, and enjoyed by the Company and their directors, officers, and servants in like manner and to the like extent as the same might be had, exercised, performed, observed, received, and enjoyed by the Canal Company and their committee of management, officers, and servants if this Act were not passed; and all the clauses, provisions, restrictions, and penalties of the several Acts relating to the Canal Company and their committee of management, officers, and servants with respect to all those matters extend and apply accordingly to the Company, and their directors, officers, and servants; and the Company or their directors may for the purposes of this Act from time to time make use of the common seal of the Canal Company.

Powers and duties of Canal Company transferred to the Company.

5. Notwithstanding the vesting of the canal in the Company, and except only as is by this Act otherwise expressly provided, everything before the passing of this Act done, suffered, and confirmed respectively under or by virtue of the several Acts relating to the Canal Company, or any of them, shall be as valid as if this Act were not passed, and the vesting 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 the vesting had not happened, would be incident to or consequent on any and everything so done, suffered, and confirmed respectively; and with respect to all such things so done, suffered, and confirmed respectively, and all such rights, liabilities, claims, and demands the Company in respect of the canal shall to all intents represent the Canal Company: Provided always, that the generality of this provision shall not be restricted by any other of the sections and provisions of this Act.

General saving of rights.

6. Except as otherwise expressly provided by this Act, after the passing of this Act and as from the vesting period, all the provisions of any and every Act of Parliament relating to the Canal Company

Provisions of Canal Company's Acts to



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A.D. 1870. and their committee of management, officers, and servants respectively, or conferring any powers, rights, or privileges on the Canal Company, their committee of management, officers, or servants, and from time to time in force, shall apply to and may be exercised, enforced, and enjoyed by and against the Company and their directors, officers, and servants respectively.

Limiting  
number of  
Severn  
Navigation  
Commis-  
sioners to be  
appointed  
by the  
Company.

7. As from the vesting period it shall not be lawful for the Company to nominate or appoint more than three persons (including the person whom they may in virtue of the vesting by this Act authorized be empowered to appoint) to act as Commissioners under the several Acts relating to the navigation of the river Severn.

Actions not  
to abate,  
&c.

8. Notwithstanding the vesting of the canal in the Company, any action, suit, prosecution, or other proceeding commenced before the passing of this Act, either by or against the Canal Company, shall not abate or be discontinued or prejudicially affected by this Act, but may be continued, prosecuted, and enforced, and shall continue and take effect by and against the Canal Company in the same manner in all respects as if this Act had not passed.

The Com-  
pany to per-  
form duties  
of Canal  
Company.

9. As from the vesting period and except as to the mortgage debt of the Canal Company and the interest from time to time thereon, and except as is by this Act otherwise expressly provided, the Company shall be subject to and shall perform, conform to, and discharge all other the duties, obligations, and liabilities with respect to the maintenance, management, and working of the canal, and the conduct of the traffic thereon, and shall indemnify the Canal Company and their committee of management, officers, and servants from the same, and all costs, losses, damages, expenses, claims, and demands in that behalf or arising from any default in the performance or observance of any such duty, liability, or obligation.

The Com-  
pany to pay  
rentcharge  
to Canal  
Company.

10. As from the vesting period the Company shall pay to the Canal Company the sum of five thousand pounds per annum (in this Act called "the canal rentcharge") for each and every year from the thirty-first day of July one thousand eight hundred and seventy.

When rent-  
charge to be  
paid.

11. The canal rentcharge payable by the Company to the Canal Company shall fall due on the thirty-first day of January and the thirty-first day of July in every year, and shall be paid by equal half-yearly payments within thirty days after those days respectively, and all such payments shall, subject as herein-after



provided be made without any deduction or abatement whatsoever, A.D. 1870.  
income tax only excepted.

**12.** The canal rentcharge shall, after the mortgage and loan debts for the time being of the Canal Company, be a first charge upon the revenue of or arising from the canal. Rentcharge to be first charge on Canal.

**13.** The Canal Company shall, half-yearly, on receipt of the sum or sums paid as or on account of the canal rentcharge, after satisfying all legal claims or demands thereupon, distribute the same, or so much thereof as remains in their hands, among the proprietors of shares or stock in the Canal Company, according to their respective interests therein, or according to any scheme which may be agreed on between and amongst the said proprietors; and the Canal Company shall only exist for the purpose of receiving and distributing the canal rentcharge, and if in arrear recovering the same, and for managing and discharging their mortgage and other debts and liabilities, and winding up their affairs. Canal Company to distribute half-yearly sums received on account of rentcharge.

**14.** If and whenever after the passing of this Act there is for thirty days after the day when the canal rentcharge is payable any default in payment thereof, or any part thereof, then and in every such case, and after demand in writing thereof made by the Canal Company on the Company, the Canal Company may recover the sum or sums of money so due and payable to them according to this Act, with all costs, charges, damages, and expenses occasioned by default in punctual payment thereof, by action, plaint, or suit in any court of competent jurisdiction. Remedy by action for recovery of rentcharge.

**15.** The demand to be made by the Canal Company of any sum or sums of money so payable to them and so in arrear may be made in writing under their common seal, and may be delivered to or may be sent by post as a registered letter addressed to the Secretary of the Company at their Paddington Station. Demand of sums in arrear precedent to action.

**16.** Notwithstanding anything in this Act, if the Company shall be called upon to pay and shall pay any sum or sums of money other than the canal rentcharge in this Act mentioned in respect of any act, deed, default, liability, contract, engagement, or agreement of the Canal Company, it shall be lawful for the Company to deduct any sum or sums of money so paid, and all costs and expenses incurred by them in relation thereto, together with interest thereon at the rate of five per centum per annum, from the said canal rentcharge by this Act made payable to the Canal Company. The Company may recoup themselves moneys paid on account of the Canal Company.

**17.** If the Company and the Canal Company from time to time so agree, the Company may assume and take upon themselves the Company may assume portion of Canal



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 Company's  
 debenture  
 debt.

whole or any part of the terminable debenture debt of the Canal Company, and thereupon the rentcharge payable by the Company to the Canal Company shall be reduced by a sum equal to five per centum, or such other rate of interest as may be agreed upon on the amount of the terminable debenture debt so assumed, and as such debt is assumed by the Company the borrowing powers of the Company shall be increased to the extent of the debt so assumed, and the Company may from time to time borrow on the security of their undertaking to a like amount, or may issue debenture stock of their undertaking to that amount, and the borrowing powers of the Canal Company shall be decreased accordingly.

Company  
 may re-  
 borrow for  
 paying off  
 a portion of  
 debenture  
 debt.

18. The Canal Company may from time to time re-borrow for the purpose of paying off so much of their debenture debt as shall not have been assumed by the Company, and all money so re-borrowed shall be applied accordingly; but, except as by this section expressly provided, the powers of the Canal Company to borrow and re-borrow are hereby extinguished.

Tolls on  
 Canal.

19. Subject to the provisions of the several Acts relating to the Canal and the undertaking of the Canal Company, the Company may demand and take for the use of the canal, and for all passengers, animals, and things conveyed thereon, and for all services performed by them respectively, and for all other matters, a like amount of tolls, fares, rates, and other charges as by those Acts, or any of them, the Canal Company are authorised to demand and take in like manner and with and subject to the like powers and provisions in all respects as if the canal continued to be vested in and managed by the Canal Company; but it shall not be necessary for the Company to obtain the consent of a general meeting to any alteration, variation, or reduction of the said tolls, fares, rates, or charges.

Cancelling  
 existing  
 agreement  
 between  
 Company  
 and Canal  
 Company.

20. The provisional agreement made between the Canal Company and the Company and the West Midland Railway Company, dated 26th August 1862, is hereby cancelled and annulled, but until the vesting period the canal shall continue to be worked and managed in accordance with the provisions of Articles 6. and 7. of the said agreement, and on the terms and conditions specified in those articles.

Canal to be  
 kept open  
 and in good  
 repair.

21. The Company shall from time to time and at all times from and after the vesting period keep and maintain the canal, and every part thereof, and all the works thereto belonging, so far as may be reasonable and necessary, well and sufficiently repaired, cleansed, scoured, and in good order and condition, so that the canal and



every part thereof may at all times be kept open and navigable for the use of traders desirous to use and navigate the same, and that without any hindrance, interruption, or delay, but subject nevertheless to the provisions and restrictions in this Act or in any of the said recited Acts contained for the recovery of the rates and dues payable in respect of the said canal. A.D. 1870.  
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**22.** The Company may from time to time apply to all or any of the purposes of this Act any moneys from time to time raised by them, and which are not by any of the Acts relating to the Company made applicable to any special purpose, or which being so made applicable are not required for the special purpose. Company may apply surplus moneys to purposes of Act.

**23.** The Company shall not, out of any money by any Act relating to the Company authorised to be raised, pay or deposit any sum which by any Standing Order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any railway or to execute any other work or undertaking. Deposits for future Bills not to be paid out of capital.

**24.** Nothing herein contained shall be deemed or construed to exempt the railway of 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, now in force or which may hereafter pass during this or any future session of Parliament, 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 Acts relating to the Company. Railway not exempt from provisions of present and future general Acts.

**25.** 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. Expenses of Act.



