



CHAPTER cv.

An Act to confer further powers upon the Sheffield and South Yorkshire Navigation Company. A.D. 1903.

[21st July 1903.]

WHEREAS by the Sheffield and South Yorkshire Navigation Act 1889 (hereinafter referred to as "the Act of 1889") the Sheffield and South Yorkshire Navigation Company (hereinafter referred to as "the Company") were incorporated and empowered to take over the undertaking of the company of proprietors of the Navigation of the River Dun (hereinafter referred to as "the Dun Navigation") together with the several canal undertakings connected therewith as in that Act specified :

52 & 53 Vict.
c. exc.

And whereas it is expedient that the Company should be authorised to carry out the works for altering diverting and improving the Dun Navigation in this Act set forth :

And whereas by the Aire and Calder and River Dun Navigations Junction Canal Act 1891 (hereinafter referred to as "the Act of 1891") the undertakers of the Aire and Calder Navigation (hereinafter referred to as "the Aire and Calder Navigation Company") were authorised to construct a new canal from the said River Dun Navigation at or near Bramwith Lock to the Knottingley and Goole Canal at or near Sykehouse Bridge :

54 & 55 Vict.
c. clxx.

And whereas it was provided by the Act of 1891 that in the event of the acquisition by the Company of the River Dun Navigation and the other canals mentioned in the Act of 1889 the Aire and Calder Navigation Company should proceed with the construction of the new canal at the joint and equal expense of that company and the Company :

And whereas the Company have acquired the River Dun Navigation and the other canals as aforesaid and the said new

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A.D. 1903. canal has become vested in the Company and the Aire and
----- Calder Navigation Company jointly :

57 & 58 Vict. And whereas by the Sheffield and South Yorkshire Navigation
c. cxlvii. Act 1894 (hereinafter referred to as "the Act of 1894") further
powers were conferred upon the Company and they were authorised
to borrow on mortgage of their undertaking any sum not exceeding
three hundred thousand pounds for the general purposes of their
undertaking which included among other purposes the payments to
be made by them in respect of the said new canal :

And whereas the construction of the said new canal has been
attended with unforeseen difficulties and the cost thereof has
exceeded the amount originally estimated therefor :

62 & 63 Vict. And whereas the time limited by the Act of 1891 for the
c. cvi. completion of the said canal has been extended by the Aire and
Calder Navigation Act 1899 until the twenty-eighth day of July
one thousand nine hundred and six :

And whereas in consequence of the increased expenditure upon
the said new canal and the extended time occupied in the construction
thereof the amount of the interest payable upon the sums contributed
by the Company to the cost thereof under the provisions of the
Act of 1891 has become an undue burden upon the revenue of the
existing undertaking of the Company and it is expedient that the
Company should be authorised to pay interest out of capital upon
the amount raised by them for the construction of the said new
canal in the manner by this Act authorised :

And whereas it is expedient that powers of entry upon lands
for the purpose of the execution of works or the repair of their
undertaking in cases of emergency should be conferred upon the
Company :

And whereas the objects of this Act cannot be attained
without the authority of Parliament :

And whereas plans and sections showing the lines situations
and levels of the works authorised by this Act and plans of the
lands which may be taken compulsorily under the powers of this
Act and a book of reference to the plans containing the names of
the owners and lessees or reputed owners and lessees and of the
occupiers of the lands required or which may be taken for the
purposes or under the powers of this Act were duly deposited with
the clerk of the peace for the west riding of the county of York
and are hereinafter referred to as the deposited plans sections and
book of reference :

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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:—

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1. This Act may be cited as the Sheffield and South Yorkshire Navigation Act 1903. Short title.

2. The following Acts and parts of Acts (that is to say):—

The Lands Clauses Acts;

Incorporation of Acts.

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to mines lying under or near the railway;

are so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act incorporated with and form part of this Act.

3. In this Act unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings:

Interpretation.

In the Acts wholly or partially incorporated with this Act—

The expression "the special Act" means this Act;

The expression "the railway company" means the Company;

The expressions "railway" "work" and "the undertaking" or other like expressions in the Lands Clauses Acts and in the provisions of the Railways Clauses Consolidation Act 1845 incorporated herewith mean the works authorised by this Act and the expression "centre of the railway" in the last-mentioned provisions means any part of such works.

4. Proceedings for the recovery of any demand not exceeding fifty pounds made under the authority of this Act or the Act of 1889 or the Act of 1894 or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court.

Recovery of demands under 50l.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described together with all necessary and convenient bridges arches culverts drains aqueducts sewers locks basins sluices gates banks weirs dams

Power to execute works.

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A.D. 1903. retaining or other walls dolphins fenders piers jetties and landing places roads towing paths passages fences buildings and other works and conveniences and may do all other acts necessary for making maintaining altering or repairing such works and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for the purpose.

The works hereinbefore referred to and authorised by this Act are—

- (1) A New Cut (No. 1) wholly in the parish of Sprotborough in the west riding of the county of York commencing at a point in the River Dun about twenty chains south of Sprotborough Weir and terminating at a point in the same river about three chains measured in a westerly direction from the same weir :
- (2) A New Cut (No. 2) wholly in the parish of Bentley with Arksey in the said west riding of the county of York commencing at a point in the said River Dun about five chains measured along the said river in a westerly direction from the western end of Strawberry Island and terminating at a point in the said river about eighteen chains measured along the said river in a northerly direction from the north-eastern end of Strawberry Island.

Power to cross water-courses &c.

6. Subject to the provisions of this Act the Company may within the limits of deviation shown on the deposited plans cross divert alter or stop up either temporarily or permanently any rivers watercourses drains culverts sewers floodgates floodbanks sluices cloughs and other works so far as may be necessary or desirable for the purpose of the works by this Act authorised the Company providing or causing to be provided proper substitutes before interrupting the flow of water or sewage Provided that in the exercise of any of the powers of this section the Company shall do as little damage as may be and shall make compensation to all parties entitled thereto for any damage sustained by reason of the exercise of such powers the amount thereof to be determined in the manner provided by the Lands Clauses Acts for settling cases of disputed compensation.

Power to deviate.

7. The Company may in constructing the works by this Act authorised deviate from the lines thereof to the extent of the limits of deviation marked on the deposited plans in reference thereto respectively and may deviate from the level of such works

as shown on the deposited sections to any extent not exceeding **three feet.** A.D. 1903.

8. If the works by this Act authorised are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the said works respectively shall cease except as to such part thereof as shall be then completed.

Period for completion of works.

9. For the protection of Sir William Henry Charles Wemyss Cooke Bart. his heirs and assigns (in this section referred to as "the owner") the following provisions shall unless otherwise agreed between the Company and the owner have effect (that is to say) :—

For protection of Sir William Cooke.

- (1) Notwithstanding anything in this Act or shown on the deposited plans the Company shall not enter upon take or use any portion of the lands coloured pink or blue on the plan signed in triplicate by the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred (hereinafter referred to as the "signed plan") except such portion as may be required for the construction of the New Cut No. 2 edged blue on the signed plan and by this Act authorised and a towing path ten feet in width which portion the owner shall immediately after the passing of this Act grant and convey to the Company without payment Reserving to the owner all mines and minerals in and under the same with full power to work get and carry away such mines and minerals or any mines and minerals under any adjoining lands without leaving any vertical or lateral support for the surface of such land or any building or works which may be constructed thereon Provided that the owner shall make compensation for any damage or injury which may be occasioned to the said New Cut No. 2 by the working of any such mines and minerals :
- (2) The owner shall have the right of free and uninterrupted access to and frontage on the said New Cut No. 2 from his land on the south side thereof and may make such wharfs docks and lay-byes in connection therewith on his lands adjoining thereto as he may think fit :
- (3) The Company shall be at liberty to deposit the spoil excavated in the construction of the said New Cut No. 2 on the land coloured pink lying between such new cut and the towing path of the River Don up to the present level of the

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floodbank or such additional height as may be agreed between the owner and the Company. Such spoil shall be evenly spread upon the said land and properly levelled to the reasonable satisfaction of the owner :

(4) The Company shall permit the owner at any time to construct any roads railways or bridges at not more than two points over the flood drain and after the construction thereof the owner and his lessees and tenants shall be at liberty without payment to construct maintain and use such roads and railways over the said bridges and any intervening land of the Company as they may desire :

(5)—(A) The Company when and so soon as the owner shall have commenced the construction of a bridge over the flood drain at the point marked C on the signed plan or of a bridge over the River Don at the point marked D on the signed plan under the right granted by the indenture of the twenty-fourth day of April one thousand eight hundred and sixty-nine hereinafter referred to shall at their own expense construct and thereafter maintain a bridge over the said new cut in the position shown on the signed plan and of sufficient width and strength to carry ordinary coal trains with ordinary colliery locomotive engines ;

(B) Such bridge shall be constructed so far as practicable in accordance with the signed plan and the section shown thereon ;

(C) Such bridge shall be constructed contemporaneously with the construction of the bridge or bridges to be constructed by the owner as aforesaid and so as to be completely finished at the same time as such bridge or bridges. The owner his lessees and tenants shall have the right to construct and maintain over the said bridge such roadways and railways as they see fit and to use the same for all purposes of roadways and railways without payment and to connect the same with any other bridge or road or railway in such manner as they shall think fit. The Company shall on the completion of the conveyances mentioned in this clause pay to the owner the sum of two hundred and fifty pounds for the cost of constructing a swing bridge across the navigation lock and towing path at Milethorne from the land coloured pink on the signed plan to the land called Strawberry Island :

- (6) Neither the owner nor the Company shall stop up or interfere with the free flow of water in the existing bed of the River Don between the points marked A and B on the signed plan or obstruct the passage of boats and barges thereon. The Company shall convey to the owner free of charge all their interest in the bed and soil of the portion of the river including the towing path but subject to the Company's rights to the use thereof between the points marked A and B on the signed plan including the Milethorne Lock and the land on either side thereof subject to the rights of the Company to the use thereof together with all mines and minerals so far as the Company can convey the same with such powers and provisions for working and getting the same as are reserved to the owner in paragraph (1) of this clause in respect of the minerals under the said new cut:
- (7) Nothing in this Act or anything to be done hereunder shall in any way prejudice diminish or affect the rights of the owner under or by virtue of an indenture dated the twenty-fourth day of April one thousand eight hundred and sixty-nine and made between the South Yorkshire Railway and River Don Company of the first part the Manchester Sheffield and Lincolnshire Railway Company of the second part and Charles Bartholomew of the third part:
- (8) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway and with respect to mines lying under or near the railway shall not extend or apply to any lands of the owner shown on the signed plan or to the owner or the Company in respect thereto:
- (9) The owner or his lessees shall be entitled for ever hereafter to full liberty and licence to bring any minerals which may belong to him or them which he or they or any of them may have power to work and get through the mines and subsoil lying at a depth of more than one hundred yards measured vertically from the surface under the said flood drain and the River Don and under any other property belonging to the Company adjoining or near to any property for the time being belonging to the owner or his trustees and for that purpose to make and use any underground levels tunnels tramways and roads below the depth aforesaid under and through the said mines and subsoil of the Company

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without payment of any wayleave rent or compensation whatsoever Provided nevertheless that the owner shall not be entitled to use at any one time more than six pairs of levels and counter levels or roads each of which levels and counter levels shall be not more than twelve feet wide and such levels shall not be nearer together than twenty yards :

(10) The owner will permit the Company and any person or persons whom the Company shall appoint in that behalf twice in every year at reasonable hours to enter upon and view the said underground levels tunnels tramways and roads or any of them to be constructed under the provisions of the last preceding clause and for the purpose of viewing the state and condition of the said underground levels tunnels tramways and roads to descend and pass into and through and ascend from all or any of the workings in the said mines and subsoil of the Company by means of any of the pits engines ropes tackle and apparatus of the owner or his lessees and to make any admeasurements or diallings and the owner shall afford all reasonable facilities for making such admeasurements and diallings :

(11) Any difference which may arise between the Company and the owner under this section shall be referred to and determined by an engineer to be agreed upon or in default of agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers.

Power to
acquire
lands.

10. Subject to the provisions of this Act the Company may enter upon and take and may hold and use for any of the purposes of their undertaking all or any part of the lands hereinafter described and delineated on the deposited plans and described in the deposited book of reference (that is to say) :—

Lands in the parish of Bentley with Arksey in the west riding of the county of York situate on and adjoining the north-western bank of the said River Dun and lying in the bend of that river at the site of Milethorne Lock and comprising the enclosures numbered 55 56 and 57 on the $\frac{1}{2500}$ Ordnance map of the said parish.

Period for
compulsory
purchase of
lands.

11. The powers of this Act for the compulsory purchase of lands shall cease after the expiration of three years from the passing of this Act.

Correction of
errors &c. in
deposited

12. If there be any omission mis-statement or erroneous description of any lands or of the owners lessees or occupiers of any

lands shown on the deposited plans or described in the deposited book of reference the Company may after giving ten days' notice to the owners lessees or occupiers affected by such proposed correction apply to two justices acting for the west riding of the county of York for the correction thereof and if it appear to the justices that such omission mis-statement or erroneous description arose from accident or mistake they shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is mis-stated or erroneously described and the decision of the justices in such matter shall be final.

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Plans and
book of
reference.

13. The certificate of the justices shall be deposited in the office of the clerk of the peace for the west riding of the county of York and a duplicate thereof shall in the case of each parish or township in which the lands are situate in respect to which or to the owners lessees or occupiers whereof the omission mis-statement or erroneous description occurred be deposited with the clerk of the parish council with whom the portion of the deposited plans and sections relating to such parish or township were deposited in reference to this Act and such certificate and duplicate shall be kept by such clerk of the peace and clerk of the parish council along with the other documents to which they relate and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and the Company may purchase take and use any lands in accordance with such certificate as if such omission mis-statement or erroneous description had not been made.

Certificate to
be deposited

14. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) required for the purposes of the Company in over or affecting any such lands and the provisions of the said Acts with respect to lands and rent-charges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Persons
under dis-
ability may
grant ease-
ments &c.

15. The Company shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were or have been since that day or shall

Restriction
on taking
houses of
labouring
class.

A.D. 1903. hereafter be occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "labouring class" means mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Power to
sell lease &c.
lands.

16. Notwithstanding anything in the Lands Clauses Acts or in any special Act relating to the Company and incorporating those Acts it shall be lawful for the Company at any time after the passing of this Act to sell lease or otherwise dispose of to such persons and in such manner as the Company think fit any lands belonging to them and which in the opinion of the Company it will not be necessary to retain for the purposes of their undertaking.

Company
may apply
their funds
to purposes
of Act.

17. The Company may apply to the purposes of this Act being in all cases purposes to which capital is properly applicable any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised.

Tolls &c.

18. The works by this Act authorised shall for the purposes of tolls rates and charges and for all other purposes whatsoever form part of the undertaking of the Company.

Power to
pay interest
out of capital
until completion
of
joint canal.

19.—(1) The Company may as from the first day of January one thousand nine hundred and two and in respect of each year thereafter until the completion and opening for public traffic of the said new canal authorised by the Act of 1891 or the expiration of the time limited for the completion thereof whichever shall be the lesser period charge to capital account in respect of the said new canal such a sum as shall represent the interest for those years upon the

capital moneys then paid by the Company for and in connection with the said canal : A.D. 1903.

Provided as follows :—

(A) The aggregate amount so charged to capital in respect of interest shall not exceed fifteen thousand pounds :

(B) The rate at which such interest shall be payable shall not exceed three per centum per annum.

(2) The money required for the payment of such interest may be provided out of any moneys in the hands of the Company on capital account.

(3) Every prospectus advertisement or other document of the Company inviting subscriptions for capital issued for the construction of the said new canal shall state that interest is payable out of capital under the provisions of this section.

20. If and whenever any work canal or navigation of the Company may be or be likely to be injured or destroyed by floods or accidents and it may be necessary that the same should be immediately strengthened or repaired to prevent damage therefrom to adjacent lands the Company may by their servants agents and workmen without any delay or interruption from any person whomsoever enter into any lands grounds or hereditaments where such accident shall have happened (not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion house of the owner of any such lands than five hundred yards therefrom) adjoining or near to any such work canal or navigation and dig for work get and carry away and use all such earth clay stones gravel and other materials as may be necessary or proper for the purposes aforesaid without the consent of the owner or occupier of or other person interested in such lands the Company doing as little damage thereto as the nature of the case will admit of and making full compensation to the owner and occupier or other person interested in such lands for all damage which may be done by digging for working getting and carrying away and using all such earth clay stones gravel and other materials which compensation shall in case of difference be determined and recovered in the manner provided by the Lands Clauses Consolidation Act 1845 for determining questions of disputed compensation Provided that nothing in this section contained shall prevent the owner occupier or other person

Works damaged by floods or accidents may be repaired by Company.

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Costs of Act. **21.** The 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.

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