

**CHAPTER xi.**

An Act to confer further powers on the Staffordshire and Worcestershire Canal Company and for other purposes. [22nd May 1940.]

WHEREAS by the Staffordshire and Worcestershire Canal Acts 1766 to 1933 the Staffordshire and Worcestershire Canal Company (originally named the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation and hereinafter referred to as "the Company") were incorporated and authorised to construct and maintain a canal in the counties of Worcester and Stafford to connect the river Severn with the Trent and Mersey Canal and to exercise other powers:

And whereas it is expedient that the Company be empowered to acquire the land described in this Act for the purposes mentioned in this Act:

And whereas the Staffordshire and Worcestershire Canal Act 1875 after reciting (inter alia) certain Acts under which the Company were empowered to lend or advance to 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 those powers the principal sum of £204,000 enacted (section 9) that the Company might create debenture stock to the said amount of £204,000 and might issue

38 Vict.
c. xliv.

the same 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 whereas it was further enacted by section 9 of the said Act of 1875 that when and as from time to time the Company receive from the Severn Commissioners or (as provided by a certain agreement recited in the Act) from the Great Western Railway Company any money in or towards repayment of the sums advanced by the Company to the Severn Commissioners the Company should apply the money either in the redemption of their 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 re-issue the same or issue any other debenture stock in lieu thereof :

And whereas the Company pursuant to their powers under the said section 9 created and issued £204,000 debenture stock as irredeemable debenture stock entitled to interest at the rate of $4\frac{1}{2}$ per centum per annum but otherwise not subject to any special terms and conditions which debenture stock is hereinafter referred to as "1875 debenture stock" :

And whereas the total amount of 1875 debenture stock now remaining unredeemed is £73,118 and the Company have no outstanding mortgages :

And whereas the money so lent or advanced by the Company to the Severn Commissioners is secured by mortgages granted by the Severn Commissioners and the aggregate principal sum now owing to the Company on these mortgages is £65,643 which will be insufficient for the payment off of the whole amount not yet redeemed of 1875 debenture stock unless part of that debenture stock can be purchased or redeemed by the Company at prices below par value :

And whereas at any time when money is paid by the Severn Commissioners in or towards repayment of the principal sum due on the said mortgages the Company may either be unable to apply such money in the redemption of further parts of 1875 debenture stock or be able to purchase 1875 debenture stock for redemption only at prices above par value and it is expedient

to enact new provisions as in this Act contained with reference to the application by the Company of the principal sums now remaining due on the said mortgages from the Severn Commissioners and the purchase or redemption of 1875 debenture stock and the formation of a redemption fund for that purpose :

And whereas the Company were authorised by the Staffordshire and Worcestershire Canal Act 1903 for the purposes therein mentioned to create and issue further debenture stock to the nominal amount of £30,000 and ranking (both as to principal and interest) subsequent to the 1875 debenture stock but no part of that debenture stock has been created and issued and it is expedient to empower the Company to create and issue the whole or any part of that debenture stock as redeemable stock and to apply the money raised by the issue of such debenture stock to any purposes of their undertaking to which capital is properly applicable :

3 Edw. 7.
c. xxxiii.

And whereas it is expedient to empower the Company to form a capital reserve fund in the manner and for the purposes by this Act provided and to enact the other provisions of this Act :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

And whereas a plan of the land which may be taken compulsorily by the Company under the powers of this Act and a book of reference to the plan containing the names of the owner and lessee or reputed owner and lessee and the occupier of that land have been deposited with the clerk of the county council of the administrative county of Worcester and are respectively referred to in this Act as the deposited plan and the deposited book of reference :

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 :—

1.—(1) This Act may be cited as the Staffordshire and Worcestershire Canal Act 1940.

Short and
collective
titles.

(2) The Staffordshire and Worcestershire Canal Acts 1766 to 1933 and this Act may be cited together as the Staffordshire and Worcestershire Canal Acts 1766 to 1940.

Incorporation of
Lands
Clauses
Acts.
8 & 9 Vict.
c. 18.

2. The Lands Clauses Acts except sections 127 to 131 of the Lands Clauses Consolidation Act 1845 are so far as applicable for the purposes and not inconsistent with the provisions of this Act incorporated with and form part of this Act:

Provided that—

(1) any question of disputed compensation under this Act or any Act incorporated herewith (other than a question required to be determined by two justices) shall be determined by a single arbitrator to be agreed upon between the Company and the person claiming the compensation or in default of such agreement appointed by the Board of Trade on the application of either party; and

(2) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Company and shall be sufficient without the addition of the sureties mentioned in that section.

Interpre-
tation.

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 Lands Clauses Consolidation Act 1845 have the same respective meanings And—

“the Company” means the Staffordshire and Worcestershire Canal Company;

“the Act of 1766” means the Act 6 Geo. III. c. 97;

“the Act of 1843” means the Act 6 Vict. c. v;

“the Act of 1875” “the Act of 1903” and “the Act of 1933” respectively mean the Staffordshire and Worcestershire Canal Acts of those respective years;

“the existing Acts” means the Staffordshire and Worcestershire Canal Acts 1766 to 1933;

23 & 24
Geo. 5.
c. xxii.

“the committee” means the committee for managing the affairs of the Company as from time to time constituted under section 14 (Committee of management) of the Act of 1933 or under section 7 (Committee of management) of this Act;

“the undertaking” means the undertaking of the Company for the time being authorised;

“1875 debenture stock” means debenture stock created and issued by the Company under the powers conferred by section 9 (Power to company to issue debenture stock in respect of loans to Severn Commissioners) of the Act of 1875;

“consolidated stock” means the stock into which the former shares of the Company were consolidated and converted pursuant to the Act of 1875 or where the context so requires part of that stock;

“stockholder” means a person registered in the books of the Company as a holder of consolidated stock;

“the canal” means the Staffordshire and Worcestershire Canal and includes the Hatherton Branch Canal which was constituted part of the undertaking of the Company by the Act of 1903.

4.—(1) The Company may—

(i) for the purpose of depositing spoil excavated in the dredging and maintenance of the canal;

(ii) for the purpose of strengthening the bank of the canal; and

(iii) for the general purpose of the undertaking;

enter upon take and use the following land in the administrative county of Worcester delineated on the deposited plan and described in the deposited book of reference (viz.):—

A plot of land in the urban district of Stourport-on-Severn situated on the south-eastern side of the property of the Company containing

Power to
acquire
land.

two acres and thirty-two perches or thereabouts and comprising the whole of the enclosure numbered 147 on the Ordnance map (scale 1/2500) edition of 1927 Worcestershire sheet XIV.10 except so much of the enclosure as is situated to the westwards or south-westwards of an imaginary straight line drawn in a north-westerly direction from the south-easternmost corner of the enclosure.

(2) The powers of the Company under this section for the compulsory purchase of the said land shall cease on the first day of October nineteen hundred and forty-three.

Correction
of errors in
deposited
plan and
book of
reference.

5. If there be any omission mis-statement or wrong description of the land or of the owner lessee or occupier of the land shown on the deposited plan or specified in the deposited book of reference the Company after giving ten days' notice to the owner lessee and occupier of the land may apply to two justices having jurisdiction in the place in which the land is situate for the correction thereof and if it appear to the justices that the omission or mis-statement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is mis-stated or wrongly described and such certificate or a copy thereof shall be deposited with the clerk of the Worcestershire County Council and a duplicate thereof shall be deposited with the clerk to the urban district council of Stourport-on-Severn and such certificate or copy and duplicate respectively shall be kept by those clerks respectively with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Company to take the land in accordance with the certificate.

Retention
and
disposal of
lands.

6. Section 8 (Retention and disposal of lands) of the Act of 1933 shall apply to any land acquired under the powers of section 4 (Power to acquire land) of this Act in like manner and to the like extent as if such land had been acquired by the Company under the Acts referred to in that section 8 as "the existing Acts."

7.—(1) The committee to be appointed at the ordinary meeting in the year nineteen hundred and forty-one pursuant to section 14 (Committee of management) of the Act of 1933 shall comprise seven stockholders and no more and on the conclusion of that ordinary meeting that section 14 shall be by virtue of this Act repealed but without prejudice to the appointment of the committee.

Committee
of manage-
ment.

(2) As from the conclusion of the said ordinary meeting the prescribed number of the members of the committee shall be seven. Provided that it shall be lawful for the Company from time to time at any ordinary meeting after due notice for that purpose to reduce or increase the number of members of the committee between a minimum of five and a maximum of seven and to determine the order of rotation in which such reduced or increased number shall go out of office.

(3) At the ordinary meeting to be held in the year nineteen hundred and forty-two and in every subsequent year the stockholders present personally or by proxy shall elect stockholders having the qualification mentioned in the next succeeding section of this Act to supply the places of the members of the committee then retiring from office agreeably to the provisions of subsection (5) of this section or to any determination of the Company with respect to the order of rotation of the members of the committee made pursuant to subsection (2) of this section.

(4) Any member of the committee appointed at the ordinary meeting in the year nineteen hundred and forty-one pursuant to the said section 14 of the Act of 1933 or elected at any subsequent ordinary meeting pursuant to subsection (3) of this section shall continue as a member of the committee until he dies or resigns or becomes disqualified or incompetent to act as a member of the committee or is retired by rotation under the next succeeding subsection.

(5) (a) The members of the committee shall (subject to any resolution of a general meeting passed under subsection (2) of this section) retire from office as follows:—

Two members shall retire at the ordinary meeting in the year nineteen hundred and forty-two and every subsequent third year;

Two members shall retire at the ordinary meeting in the year nineteen hundred and forty-three and every subsequent third year;

Three members shall retire at the ordinary meeting in the year nineteen hundred and forty-four and every subsequent third year;

and at each ordinary meeting the places of the retiring members of the committee shall be supplied by the election of an equal number of stockholders qualified as aforesaid.

(b) The members of the committee who are to retire from office pursuant to paragraph (a) of this subsection at the ordinary meeting in the year nineteen hundred and forty-two and in the year nineteen hundred and forty-three respectively shall be determined by ballot amongst the members of the committee before the holding of the ordinary meeting in the year nineteen hundred and forty-two unless they otherwise agree and the members of the committee so to retire at every subsequent ordinary meeting shall be those who have been longest in office.

(c) Every member of the committee so retiring from office may be re-elected immediately or at any future time and after such re-election shall with reference to retirement by rotation be considered as a new member of the committee.

(6) Except in the case of a member of the committee retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected at a general meeting a member of the committee unless notice in writing that such person intends to offer himself or will be proposed for the office of a member of the committee shall have been given to the secretary to the company or left at the head office of the Company five days at least before the day of election.

(7) If any member of the committee die or resign or become disqualified or incompetent to act as a member of the committee or cease to be a member of the committee for any other cause than that of going out of office by rotation as aforesaid the remaining members of the committee if they think proper so to do

may elect in his place some other stockholder having the qualification mentioned in the next succeeding section of this Act to be a member of the committee and the person so elected to fill up any such vacancy shall continue in office as a member of the committee so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

(8) The committee as from time to time constituted under this section shall be a committee to manage the affairs of the company in such manner as is directed by the existing Acts and this Act and as shall from time to time be ordered by any general meeting of the Company.

(9) All powers conferred by any unrepealed provisions of the existing Acts on the committee chosen under section 30 (General assemblies for choosing a Committee) of the Act of 1766 shall be exerciseable by the committee for the time being holding office pursuant to this section and all references in any unrepealed provisions of the existing Acts to the committee chosen under the said section 30 (including the references in the Act of 1843 to the committee of the company) shall be construed as references to the committee so holding office.

8.—(1) The qualification of a member of the committee shall be the possession of not less than nine hundred pounds (nominal amount) of consolidated stock.

Qualifica-
tion of
members
of
committee.

(2) Section 8 (Qualification of members of committee) of the Act of 1875 is hereby repealed.

9. The quorum of a meeting of the committee shall be three members so long as there are six or seven members of the committee and two members so long as there are only five members of the committee.

Quorum of
a meeting
of
committee.

10. Section 98 (Proceedings to be entered in books to be signed by chairman and to be evidence) of the Companies Clauses Consolidation Act 1845 shall in its application to the Company as incorporated with the Act of 1933 and applied to the Company and the committee by section 11 of that Act have effect as if the

Signing of
minutes.
8 & 9 Vict.
c. 16.

words "or of the next succeeding meeting" were inserted therein after the words "shall be signed by the chairman of such meeting."

Redemp-
tion fund.

11.—(1) Notwithstanding anything in the existing Acts or any other enactment the Company shall be under no obligation to apply any sums of money hereafter to be received from the Severn Commissioners in or towards repayment of the sums advanced by the Company to the Severn Commissioners in purchase or redemption of 1875 debenture stock or any part thereof except as expressly provided in this section.

(2) The Company may apply any sums of money hereafter to be received from the Severn Commissioners as aforesaid in purchase or redemption of 1875 debenture stock or some part thereof at such price (whether at or above or below the par value thereof) and generally upon such terms and conditions as the committee may in its absolute discretion deem expedient.

(3) The Company shall establish and maintain a redemption fund to be known as the 1875 debenture stock redemption fund (hereinafter in this Act called "the redemption fund") and there shall be transferred to the redemption fund—

- (i) all sums of money hereafter to be received from the Severn Commissioners as aforesaid and not applied in manner authorised by subsection (2) hereof; and
- (ii) all sums of money or investments which the committee may from time to time see fit to transfer thereto from the capital reserve fund pursuant to the provisions of the next succeeding section of this Act.

(4) The committee may invest any money for the time being in the redemption fund in any securities in which trustees are for the time being authorised by law to invest. The income arising from such investments shall form part of the general revenue of the Company and be applicable accordingly.

(5) The committee shall at such time or times and from time to time as the committee in its absolute discretion may think fit apply the whole or any part of the

money and investments for the time being in the redemption fund in the purchase or redemption of 1875 debenture stock at such price or prices (whether at or above or below the par value thereof) and generally upon such terms and conditions as the committee may in its absolute discretion deem expedient. Provided that nothing in this subsection shall authorise the Company to purchase or redeem any 1875 debenture stock except by agreement with the holder thereof.

(6) All 1875 debenture stock purchased or redeemed pursuant to the provision of this section shall thereupon be cancelled and the Company shall not re-issue the same or issue any other debenture stock in lieu thereof.

(7) If at any time the value of the money and investments for the time being in the redemption fund exceeds the nominal value of the 1875 debenture stock for the time being outstanding the committee may transfer the excess of the value of the said money and investments over the said nominal value of the 1875 debenture stock to the said capital reserve fund and upon the final extinction of the 1875 debenture stock the committee shall transfer the balance (if any) of the money and investments in the redemption fund to the said capital reserve fund.

12.—(1) The Company may establish a fund to be called "the capital reserve fund" and transfer to that fund—

Capital
reserve
fund.

- (a) the whole or any part of the proceeds of any sale (whether heretofore or hereafter to be made by the Company) of any lands warehouses buildings or other properties (being capital assets of the Company) and of any capital money received by the Company on any lease exchange or other disposal of lands or interests in lands or on the sale exchange or disposal of any rents under section 8 (Retention and disposal of lands) of the Act of 1933; and
- (b) subject to the sanction of a resolution of a general meeting of the Company any other money or funds for the time being in their hands other than any money to which the last preceding section applies.

(2) The committee may invest any money for the time being in the capital reserve fund in any securities in which trustees are for the time being authorised by law to invest and with the sanction of a resolution of a general meeting of the Company in any other securities including consolidated stock of the Company. The income arising from any such investments shall form part of the general revenue of the Company and be applicable accordingly.

(3) The committee may from time to time apply the whole or any part of the money and investments for the time being in the capital reserve fund to all or any of the following purposes :—

- (i) the purchase by agreement of debenture stock created and issued under the powers of section 4 (Power to create debenture stock) of the Act of 1903 as extended by this Act;
- (ii) the purchase by agreement before the date of maturity of redeemable debenture stock created and issued under the powers of section 14 (Redeemable debenture stock) of this Act;
- (iii) the purchase by agreement and cancellation of consolidated stock; and
- (iv) any other purposes of the existing Acts and this Act to which capital is properly applicable;

or may at any time transfer any part of the said money and investments to the redemption fund.

(4) If any debenture stock created and issued under the powers of the Act of 1903 be purchased by the committee under the powers of the last preceding subsection subsections (2) and (4) of section 9 (Power to purchase debenture stock) of the Act of 1933 shall apply as if the debenture stock had been purchased under the powers of subsection (1) of that section.

(5) If any redeemable debenture stock created and issued under the powers of the said section 14 of this Act be purchased under the powers of subsection (3) of this section the stock so purchased shall be cancelled and be deemed to be "redeemed stock" within the meaning and for the purposes of that section 14.

13. The power conferred on the Company by section 4 (Power to create debenture stock) of the Act of 1903 may be exercised for the purpose of raising money for application to any purposes of the Company to which capital is properly applicable and any debenture stock created and issued under the powers of that section may be created and issued without the benefit of the special lien or charge mentioned in paragraph (2) of that section.

Power to
issue
debenture
stock.

14.—(1) In this section the following expressions have the following respective meanings:—

Redeem-
able
debenture
stock.

“ issue ” includes re-issue;

“ redeemable stock ” means debenture stock issued so as to be redeemable;

“ redeemed stock ” means redeemable stock which has been redeemed and is available for issue under the provisions of this section.

(2) Subject to the provisions of this section the Company may from time to time—

(a) issue so as to be redeemable any debenture stock created by them under the powers conferred by section 4 (Power to create debenture stock) of the Act of 1903 as extended by this Act; and

(b) issue so as to be redeemable or irredeemable as the committee think fit any redeemed stock:

Provided that no redeemed stock shall be issued except for the purpose of effecting the redemption of redeemable stock under the provisions of this section unless the issue is authorised by a resolution of a general meeting of the Company.

(3) Redeemable stock may be redeemed either by paying off the stock or by issuing to an assenting holder of the stock other debenture stock (whether redeemable or irredeemable) in substitution therefor and for the purpose of raising money to pay off or of providing debenture stock in substitution for any redeemable stock the Company may create new debenture stock or issue redeemed stock in either case so as to be redeemable or irredeemable as they think fit:

Provided that no new debenture stock shall be created nor shall any redeemed stock be issued so as to make the total nominal amount of debenture stock created and issued by the Company under the powers of (i) the said section 4 of the Act of 1903 as extended by this Act and (ii) this section and for the time being outstanding and unredeemed exceed thirty thousand pounds except during an interval of three months between the creation or (in the case of redeemed stock) the issue of the new debenture stock and the completion of the redemption of the redeemable stock for the purpose of redeeming which the new debenture stock or redeemed stock is proposed to be so created or issued.

(4) Redeemable stock shall bear such rate of interest and be redeemable at such time and in such manner and subject otherwise to such terms and conditions as the committee may before the issue thereof determine. Provided that the terms and conditions of redemption upon which any redeemable stock is issued shall be stated in any offer by the Company of such stock for sale and in every certificate of such stock and no term or condition of redemption which is not so stated shall be binding upon the holder of the stock.

Saving for
emergency
powers of
Treasury.
2 & 3
Geo. 6.
c. 62.

15. So long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Act 1939 it shall not be lawful to exercise the powers of borrowing conferred by this Act without such consent.

Power to
contribute
to associa-
tions
hospitals
&c.

16. The Company may make contributions to the funds or towards the expenses of any association committee council conference congress or other organisation dealing with any matter of general interest to the Company in relation to their undertaking and to any hospital or sanatorium. Provided that the aggregate amount of such contributions in any year shall not exceed one hundred pounds.

Applica-
tion of
funds.

17. The Company may from time to time apply towards any of the purposes of this Act to which capital is properly applicable any money which they have

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raised or may hereafter raise under the existing Acts and this Act and any other funds or capital money belonging to them.

18. 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 and may wholly or partly be charged against revenue. Costs of Act.

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