



### CHAPTER lxi.

An Act to amend the Madras Irrigation and Canal Acts in reference to the raising of Money. [27th June 1872.] A.D. 1872.

WHEREAS by "The Madras Irrigation and Canal Act, 1858," in this Act called the Act of 1858, the Madras Irrigation and Canal Company (in this Act called "the Company") were incorporated for constructing works for a variety of purposes within the presidency of Madras, but chiefly for irrigation and navigation within that presidency, and the Company were empowered to enter into and conclude with the East India Company on account of the Government of India, or with the Supreme or any of the Local Governments of India, such contracts as the respective parties might think fit and agree upon respecting all or any of the objects and purposes therein referred to, including amongst other things the guarantee of interest on the capital of the Company; and it was by the same Act declared that the capital of the Company should be, in the first instance, the sum of two million pounds sterling; and the Company were further empowered, when and so soon as the whole capital for the time being should have been subscribed for, and one half thereof paid up, to borrow upon mortgage or bond money to an amount equal to one third of such capital, but subject in all respects to such provisions as the East India Company or the Supreme Government should from time to time approve: 21 & 22 Vict. c. viii.

And whereas the Secretary of State in Council in the month of December one thousand eight hundred and fifty-eight, entered into an arrangement with the Company to co-operate with them in the construction of works for irrigation and navigation upon certain terms and conditions, including (1), that the operations of the Company should, in the first instance, be confined to one work or project to be approved by the local government, the estimated cost whereof should be one million pounds sterling; and (2), that the



A.D. 1872.      Secretary of State in Council should guarantee a minimum interest of five per centum per annum on the said capital of one million pounds sterling :

And whereas in pursuance of the said arrangement the Company raised a capital of one million pounds as a first issue, and on account of the said capital of two million pounds :

And whereas the Government of Madras selected as the work or project to be constructed by the Company under the said arrangement a certain work or scheme of works known as "The Toombuddra Project," consisting of a main irrigating and navigable canal and works, in the presidency of Madras, with reservoirs for the storage of water, such main canal being divisible into three sections, the first extending from Wallavapoor to Soonkasala, and known as the Bellary section, the second extending from Soonkasala to Cuddapah, and known as the Soonkasala and Cuddapah section, and the third extending from Cuddapah to Kistnapatam, and known as the Nellore section, and the Company entered upon the surveying and planning of the said work or project and the construction of portions thereof :

And whereas the said arrangement was subsequently embodied in an indenture dated the third day of June one thousand eight hundred and sixty-three, and made between the Secretary of State in Council of the one part and the Company of the other part, whereby, after reciting amongst other things that it was estimated that the said sum of one million pounds would be insufficient to complete and develop the said Toombuddra project, and that it had been agreed between the Secretary of State in Council and the Company that in order to meet the deficiency the Company should, subject to the terms and conditions therein contained, be at liberty to raise whatever further capital might be required for the objects and purposes of the Company, it was (by Article 2) covenanted that the Secretary of State in Council should pay to the Company out of the revenues of India half-yearly interest at the rate of five pounds per centum per annum on the said first issue of capital of one million pounds ; and (by Article 3) it was stipulated that the Company should be at liberty to raise any amount of capital in addition to the said one million pounds to carry into effect the purposes of the Company therein mentioned, provided that the Secretary of State should not be called upon to pay or be held to be liable to guarantee interest thereon ; and (by Article 23) it was stipulated that the net receipts from the said works, or any portion thereof, in respect of water supplied for irrigation from the commencement of such supply up to the first of the half-yearly days



therein referred to, and during each succeeding half year, as should from time to time appear by the Irrigation Revenue Account of the Company, after debiting such account with the payments therein mentioned, and after deducting such sum (if any) as might by arrangement between the Secretary of State in Council and the Company be from time to time appropriated and set apart as a reserve fund for the purposes therein mentioned, should be applied half-yearly, first, in discharging the interest which should be payable by the Secretary of State in Council under the covenant before referred to in respect of the half year, and so as to exonerate the Secretary of State in Council and the revenues of India, so far as the same net receipts would extend, from the payment of such interest and afterwards as therein mentioned :

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And whereas by the Madras Irrigation and Canal (Accounts) Act, 1863, (in this Act called the Act of 1863,) it was (by section 4) amongst other things enacted that it should be competent to the Company to borrow money to the extent of one third of the capital for the time being issued or raised, notwithstanding that the whole capital of two million pounds might not have been subscribed for ; and that the directors might from time to time determine the amount of money to be borrowed, and the mode in which the same should be raised, but it was by the same section provided that the Company should not be at liberty in borrowing money to make any charge on the irrigation which should in any way affect the payments set apart in the 23rd section of the agreement, for the purpose of securing payment of five pounds per centum on the first capital of one million pounds, in relief of the covenant of the Secretary of State in Council in regard to interest ; and (by section 5) power was given to raise and apply capital for any separate work or undertaking, and provision was made for keeping such capital separate and distinct from the other capital of the Company ; and (by section 8) it was enacted that all moneys raised for any distinct work or undertaking, whether by shares or loan, should be applied only in, for, or towards that work or undertaking, and that the bonds, debentures, or mortgages issued in respect of any such moneys should give to the obligees, payees, or mortgagees thereunder or thereof claims only against the assets of the Company in respect of that distinct work or undertaking, and not further or otherwise :

26 & 27 Vict.  
c. clxxxi.

And whereas by the Madras Irrigation and Canal Act, 1866, (in this Act called the Act of 1866,) after reciting amongst other things that a supplementary arrangement was in contemplation between the Secretary of State in Council and the Company, whereby it was proposed amongst other things that the Company should be per-

29 & 30 Vict.  
c. cccii.



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*Act, 1872.*

A.D. 1872.      mitted to draw upon the Secretary of State in Council for such sums as the Company might from time to time require for the prosecution of the canal and works forming the Soonkasala and Cuddapah section of the Toombuddra project, but not exceeding a total of six hundred thousand pounds, upon certain terms and conditions, it was (by section 3) enacted, that in order to enable the said supplementary arrangement to be carried into effect, it should be lawful for the directors (notwithstanding the requisite amount of capital, according to the provisions of the Acts of 1858 and 1863, might not have been subscribed for or paid up) to raise by way of loan from the Secretary of State in Council, upon debentures, such sums of money as the Company should from time to time, until the first day of July one thousand eight hundred and seventy-one, require for the purpose of proceeding with the construction of the said canal and works forming the Soonkasala and Cuddapah portion of the Toombuddra project, but not exceeding in the whole the sum of six hundred thousand pounds, and that the directors from time to time should execute, under the common seal of the Company, and deliver to the Secretary of State in Council, debentures for the amounts which might be from time to time so advanced and lent by the Secretary of State in Council to the Company, and that such debentures should be respectively made payable at the expiration of five years from the time when the sum of money thereby intended to be secured should have been advanced and lent to the Company, and that the Secretary of State in Council should be entitled to interest on the amount thereof at the rate of five pounds per centum per annum, and that such interest should be a first charge on all profit which should be realised by and payable to the Company from the said canal and works, whether such profits should be derived from irrigation, navigation, or any other source of profit whatever; and it was provided that the said debentures, or the provisions therein-before contained, should not in any manner prejudice or affect the rights of the owners for the time being of the capital sum of one million pounds then raised, to the payment or guarantee of interest at the rate of five pounds per centum per annum, by the Secretary of State in Council, under or by virtue of the said contract of the third of June one thousand eight hundred and sixty-three, or the Acts of 1858 and 1863, until the cesser of such guarantee in the event and as therein-after mentioned; and (by section 6) it was also enacted that the directors might from time to time raise by way of loan on mortgage, bond, or debenture, any sums of money which they might consider it necessary or expedient to raise for the purpose only of paying off or discharging the debentures to be given to the Secretary of State in Council as aforesaid :



And whereas the said supplementary arrangement was afterwards embodied in a supplementary contract, bearing date the second day of October one thousand eight hundred and sixty-six, and made between the Secretary of State in Council of the one part and the Company of the other part :

And whereas the Secretary of State in Council has, under the supplementary contract, advanced to the Company at various times sums of money amounting in the whole to six hundred thousand pounds, and the Company have given to the Secretary of State in Council debentures for the respective amounts so advanced, which debentures are made payable at the expiration of five years from their respective dates ; and the Company have expended the said sum of six hundred thousand pounds upon works approved by the Secretary of State, that is to say, the principal portion thereof in the construction of the Soonkasala and Cuddapah section of the said Toombuddra project, and the other portion thereof in the surveying of the other sections of the same project and the preparation of plans and estimates of the works intended to be comprised in those other sections :

And whereas the first advance from the Secretary of State in Council to the Company on account of the six hundred thousand pounds will shortly be repayable, and the Company have no means of raising the sum required to pay the amount thereof or of the subsequent advances, except by exercise of the powers of borrowing conferred upon them by the Act of 1866, but are unable to do so in consequence of doubts which have arisen as to whether the holders of mortgages, bonds, and debentures issued under the authority of section six of the Act of 1866 would be entitled to the same priority in respect of interest thereon as that to which the Secretary of State in Council is now entitled in respect of the interest on the debentures for the six hundred thousand pounds which are intended to be paid off and discharged thereby ; and it is expedient that the said doubts should be removed, and that the Company should be empowered to exercise their powers of borrowing under the Act of 1866, notwithstanding any impediments contained in the said Acts, indenture, and supplementary contract, or any of them ; but the same cannot be done 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 :

1. This Act may be cited for all purposes as "The Madras Short title. Irrigation and Canal Act, 1872."

[Ch. lxi.] *The Madras Irrigation and Canal* [35 & 36 VICT.]  
*Act, 1872.*

A.D. 1872.

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Acts to be  
construed  
as one Act.  
Power to  
borrow  
money.

2. The recited Acts and this Act shall be read and construed as one Act.

3. Subject to the debentures held by the Secretary of State in Council, or such of them as may for the time being remain undischarged, the interest on all mortgages, bonds, and debentures issued under the authority of section 6 of the Act of 1866 shall, notwithstanding the proviso contained in section 4 of the Act of 1863, or anything in the recited Acts, and the indenture of the third day of June one thousand eight hundred and sixty-three, or either of them, contained, be a first charge on all profits which shall be realised by and payable to the Company from the Soonkasala and Cuddapah section of the said Toombuddra project, whether such profits shall be derived from irrigation, navigation, or any other source of profit whatever produced by the canal and works comprised in the said section: Provided that the said mortgages, bonds, or debentures, or the provisions herein-before contained, shall not in any manner prejudice or affect the rights of the owners for the time being of the capital stock or sum of one million pounds already raised to the payment of the guarantee of interest at the rate of five pounds per centum per annum, by the Secretary of State in Council, under or by virtue of the said indenture of the third day of June one thousand eight hundred and sixty-three, or the recited Acts, until the cesser of such guarantee in the said indenture set forth.

Expenses of  
Act.

4. 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.