



## CHAPTER cxlix.

An Act to confer further Powers on the Company of Proprietors of the Birmingham Canal Navigations to amend the Acts relating thereto and for other purposes. A.D. 1893.  
[27th July 1893.]

**W**HEREAS by an Act passed in the fifth year of William the Fourth chapter thirty-four intituled "An Act to consolidate and extend the powers and provisions of the several Acts relating to the Birmingham Canal Navigations" (in this Act called "the Act of 1835") the Company of Proprietors of the Birmingham Canal Navigations (in this Act called "the Company") were incorporated and divers canals and other works and real and personal estate and effects were vested in and authorised to be acquired by and divers powers and authorities were conferred on the Company : 5 Will. IV.  
c. xxxiv.

And whereas the Acts of the second and third years of Her present Majesty chapter sixty-one and of the third year of Her present Majesty chapters twenty-four and fifty-six and of the seventh year of Her present Majesty chapter eleven and of the ninth and tenth years of Her present Majesty chapter two hundred and sixty-nine were afterwards passed with respect to the Company : 2 & 3 Vict.  
c. lxi.  
3 Vict. c. xxiv.  
& c. lvi.  
7 Vict. c. xi.  
9 & 10 Vict.  
c. cclxix.

And whereas by the recited Acts (in this Act called "the earlier Acts") the Company were authorised to borrow sums amounting in all to seven hundred and ninety-seven thousand four hundred pounds :

And whereas by the London and Birmingham Railway and Birmingham Canal Arrangement Act 1846 (in this Act called "the Act of 1846") provision was made for the guarantee by the London and Birmingham Railway Company (now the London and North Western Railway Company in this Act called "the North Western Company") of an annual dividend of four pounds per share on seventeen thousand six hundred then existing shares in the capital of the Company and also on every share into which the unallocated debt owing by the Company or any part thereof should with the 9 & 10 Vict.  
c. cclxiv.

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A.D. 1893. consent of the North Western Company be converted in case the annual profits or income of the Company after deducting expenses and interest on their unallocated debt and other outgoings in the said Act specified should be insufficient to produce a dividend of that amount and for extending that guarantee to two thousand and sixty additional shares and six-eighths of a share which were added to the capital of the Company by the recited Act of the ninth and tenth years of Her present Majesty chapter two hundred and sixty-nine for the consolidation of the Dudley Canal Navigation with the Birmingham Canal Navigations :

9 & 10 Vict.  
c. cccxxviii.

And whereas by the Birmingham Wolverhampton and Stour Valley Railway Act 1846 (Birmingham Wolverhampton and Dudley lines) (in this Act called "the Stour Valley Act") the Company were authorised to subscribe towards and to become shareholders in the undertaking by that Act authorised in their own name to the extent of one-fourth part of the capital of the Birmingham Wolverhampton and Stour Valley Railway Company (in this Act called "the Stour Valley Company") or to any less extent and to borrow the sum agreed to be subscribed by them or any portion thereof :

And whereas in pursuance of those powers the Company borrowed the sum of one hundred and ninety thousand and eighty-seven pounds ten shillings and subscribed for shares in the capital of the Stour Valley Company (now merged in the North Western Company) to the same amount which shares are now represented by one hundred and twenty-six thousand seven hundred and twenty-five pounds consolidated stock of the North Western Company :

17 & 18 Vict.  
c. cxii.

And whereas by the Birmingham Canal Navigations Act 1854 (in this Act called "the Act of 1854") the Company were authorised to make and maintain new canals tramways and other works and to borrow a further sum of eighty thousand pounds with a provision that the sums from time to time borrowed and owing by the Company thereunder should be deemed part of their unallocated debt and provision was made for payment of the interest thereon as if the same had been part of the unallocated debt of the Company at the time of the passing of the Act of 1846 :

18 & 19 Vict.  
c. cxxi.

And whereas by the Birmingham Canal Navigations Act 1855 (in this Act called "the Act of 1855") the Company were authorised to make and maintain other new canals and works and for those purposes to raise any additional sums not exceeding two hundred and thirty-eight thousand three hundred pounds by shares and the guarantee of the North Western Company was extended to every new share for the time being created and issued under that Act :

And whereas by the Birmingham Canal Navigations Act 1858 A.D. 1893.  
the Company were authorised to raise additional capital not  
exceeding in the whole one hundred thousand pounds by shares and 21 Vict.  
the guarantee of the North Western Company was extended to c. xxvii.  
every new share for the time being created and issued under that  
Act:

And whereas by the Birmingham Canal Navigations Act 1861 24 & 25 Vict.  
(in this Act called "the Act of 1861") the Company were authorised c. lxxiv.  
to raise additional capital not exceeding seventy-five thousand  
pounds by shares and to borrow a further sum not exceeding  
twenty-five thousand pounds and the guarantee of the North  
Western Company was extended to every new share for the time  
being created and issued under that Act and provisions were  
thereby made that the sums from time to time borrowed and owing  
by the Company thereunder and the moneys raised by the Company  
for the purposes of their subscription to the capital of the Stour  
Valley Company should respectively be deemed part of the unallo-  
cated debt of the Company and provision was made for payment of  
the interest on those moneys and sums as if the same respectively  
were part of the unallocated debt of the Company at the time of the  
passing of the Act of 1846 :

And whereas by the Birmingham Canal Navigations Act 1870 33 & 34 Vict.  
(in this Act called "the Act of 1870") the Company were authorised c. lx.  
to raise additional capital not exceeding fifty thousand pounds by  
shares and to borrow a further sum not exceeding fifteen thousand  
pounds and the guarantee of the North Western Company was  
extended to every new share created and issued under that Act and  
it was provided that the moneys for the time being borrowed and  
owing under that Act should be deemed part of the unallocated  
debt of the Company and provision was made for the payment of  
interest thereon as if the same had been part of the unallocated  
debt of the Company at the time of the passing of the Act of  
1846 :

And whereas by the Act of 1870 it was further provided that if  
the shares in the capital of the Company should be consolidated  
into stock then the guarantee by the North Western Company of a  
minimum annual dividend of four pounds in respect of every share  
in the share capital of the Company should extend to and include  
such stock and each sum of one hundred pounds of such stock  
should be deemed equal to and be entitled to the same dividend as  
each share so consolidated into stock would have been entitled to if  
no consolidation had taken place and each lesser sum of such stock

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A.D. 1893. should be entitled to a proportionate dividend corresponding to the proportion which such lesser sum bears to one hundred pounds :

And whereas the total authorised share capital of the Company has been issued and has been consolidated into two million four hundred and thirty-nine thousand five hundred and seventy-five pounds stock and under the recited provisions of the Act of 1870 the guarantee of the North Western Company extends to and includes such stock :

And whereas the sums which the Company were authorised to borrow under the Stour Valley Act and the Acts of 1854 1861 and 1870 (in this Act called "the later Acts") amounted in all to three hundred and ten thousand and eighty-seven pounds ten shillings making the total borrowing powers of the Company under the recited Acts one million one hundred and seven thousand four hundred and eighty-seven pounds ten shillings and the Company have raised by the issue of debenture stock seven hundred and ninety-seven thousand four hundred pounds and by mortgage the full sum of three hundred and ten thousand and eighty-seven pounds ten shillings making the total of one million one hundred and seven thousand four hundred and eighty-seven pounds ten shillings which amount now constitutes the unallocated debt of the Company and it is expedient to make the provisions in this Act contained with respect to the existing mortgages and the existing debenture stock of the Company and to substitute new powers of borrowing and re-borrowing for the existing powers of the Company in that behalf so as to simplify the same and enable them to be more conveniently exercised :

And whereas by the Act of 1835 (sections 171 and 172) it was provided that the Company should make and maintain such bridges arches and passages over under and through the canals of the Company as two or more justices should from time to time judge necessary and appoint for the use of the owners and occupiers of the lands adjoining the said canals and various questions have arisen as to the true extent and meaning of the said sections and it is expedient by reason of lapse of time and alteration of circumstances since that Act was passed that the Company should be relieved from liability under the said provisions to make or maintain any new or additional bridges arches or passages other than those already constructed :

And whereas it is expedient that some of the powers and provisions of the recited Acts should be amended extended and enlarged or repealed as by this Act provided and that such further powers

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and provisions as are in this Act expressed should be conferred upon the Company or be made with respect to their undertaking :

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And whereas the objects of this Act 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 as the Birmingham Canal Navigations Act 1893. Short title.

2. The following clauses and provisions of Acts are (except where expressly varied by or inconsistent with the provisions of this Act) incorporated with and form part of this Act (that is to say) :— Incorporation of general Acts.

The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to—

The borrowing of money by the Company on mortgage or bond :

Part III. of the Companies Clauses Act 1863 relating to debenture stock as amended by the Companies Clauses Act 1869.

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

“The Company” means the Company of Proprietors of the Birmingham Canal Navigations ;

“The North Western Company” means the London and North Western Railway Company ;

“The canal” means the canals of the Company ;

“The earlier Acts” means the recited Acts 5 William IV. chapter xxxiv. 2 & 3 Victoria chapter lxi. 3 Victoria chapter xxiv. 3 Victoria chapter lvi. 7 Victoria chapter xi. and 9 & 10 Victoria chapter cclxix. ;

“The later Acts” means the Stour Valley Act the Act of 1854 the Act of 1861 and the Act of 1870 ;

“The existing debenture stock” means the debenture stock created and issued by the Company amounting to seven hundred and ninety-seven thousand four hundred pounds ;

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“The existing mortgages” means the existing mortgages of the Company amounting to three hundred and ten thousand and eighty-seven pounds ten shillings.

Existing mortgages and debenture stock to constitute unallocated debt.

4. The moneys raised by the existing mortgages and the existing debenture stock of the Company shall be deemed and are hereby declared to be the existing unallocated debt of the Company.

Provisions as to existing debt of Company and substitution of new borrowing powers for existing powers.

5.—(1.) The existing debenture stock of the Company amounting to seven hundred and ninety-seven thousand four hundred pounds shall be deemed to have been created and issued in respect and by virtue of the borrowing powers contained in the earlier Acts and no power of borrowing or re-borrowing contained in the said Acts or any of them shall be exercised by the Company after the passing of this Act. Provided that this enactment shall not affect the validity or priority of any existing mortgage made by the Company under the said Acts or any of them.

(2.) The powers of borrowing and re-borrowing contained in the later Acts shall not be exercised by the Company after the passing of this Act.

(3.) The Company may from time to time (in lieu of the borrowing powers which by the provisions of this section are no longer to be exercised) borrow on mortgage of their undertaking any sum not exceeding three hundred and ten thousand and eighty-seven pounds ten shillings.

(4.) Money borrowed under this section shall be applied only in paying off or redeeming the existing mortgages of the Company.

(5.) If having borrowed any money under the provisions of this section the Company pay off the same otherwise than from the proceeds of the sale of the stock held by the Company in the North Western Company they may re-borrow the same and so from time to time.

(6.) The authority of a general assembly of the Company shall not be required for the exercise of any power of borrowing or re-borrowing under this section.

Declaration by committee &c. on mortgages &c.

6.—(1.) There shall be put (by indorsement or otherwise) on every mortgage made or given by the Company after the passing of this Act for securing money borrowed by the Company a declaration in the form given in the schedule to this Act or to the like effect with such variations as circumstances may require.

(2.) Every such declaration shall be signed by two members of the committee of management of the Company specially authorised and

appointed by the committee of management to sign such declaration and by the Company's clerk or other officer from time to time appointed by the committee of management for that purpose. A.D. 1893.

7. All mortgages granted by the Company under the recited Acts or any of them and now in force shall have priority over all mortgages granted under this Act. Priority of existing mortgages.

8. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal or principal and interest the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole. For appointment of receiver.

9. For the purpose of ascertaining from time to time the annual amount of deficiency to be paid by the North Western Company by way of guarantee as provided by the Act of 1846 the sums of money for the time being borrowed under and owing by the Company by virtue of this Act shall be deemed part of the unallocated debt owing by the Company and the interest thereof shall be deducted from the gross annual income of the Company as if the same were part of the unallocated debt owing by the Company at the time of the passing of the Act of 1846. Money borrowed under this Act to be taken into account in ascertaining guarantee.

10. Until the money borrowed under the authority of this Act for the purpose of paying off or redeeming money borrowed under the Acts of 1854 1861 and 1870 has been wholly paid and satisfied the Company shall not in any year make a dividend to a greater amount than four pounds in respect of each sum of one hundred pounds of the consolidated stock of the Company. No dividend above four per-centum until money borrowed under this Act paid off.

11. If all or any part of the money which the Company are for the time being authorised to raise on mortgage shall be raised by the creation and issue of debenture stock then for the purpose of ascertaining from time to time the annual amount of deficiency to be paid by the North Western Company by way of guarantee as provided by the Act of 1846 the sums of money for the time being raised by the creation and issue of debenture stock shall be deemed part of the unallocated debt owing by the Company and the interest thereof shall be deducted from the gross annual income of the Company as if the same were part of the unallocated debt owing by the Company at the time of the passing of the Act of 1846 but no issue of debenture stock shall take place without the previous assent If debenture stock issued to be deemed part of unallocated debt.

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of the North Western Company signified under the common seal of that Company or under the hand of the chairman of that Company.

Repeal of  
existing pro-  
visions as to  
bridges &c.

**12.** From and after the passing of this Act it shall not be obligatory upon the Company to make erect or maintain any new bridges arches or passages over under or through the canal or any trenches streams or watercourses alongside or connected therewith for the use of the owners and occupiers of the lands and grounds or hereditaments adjoining the canal and the provisions of sections one hundred and seventy-one and one hundred and seventy-two of the Act of 1835 and of any other Act of or relating to the Company or the canal are hereby repealed so far as the same are inconsistent with this enactment.

Provisions as  
to bridges  
over canal.

**13.—(1.)** If at any time any bridge over the canal which the Company are not bound to keep in repair shall be out of repair the Company may give notice in writing to the owner of such bridge or to the person liable to repair the same as the case may be to put the bridge in good repair and condition to the reasonable satisfaction of the Company's engineer and if such owner or person fail to do so for one month after the date of such notice it shall be lawful for the Company to put the bridge in good repair and condition and to recover the expenses of repairing the bridge from such owner or person.

(2.) Any notice under this section may be directed to the owner of the bridge or to the person liable to repair the same as the case may be without any other description and shall be sufficiently served by being left at or sent by post to the last known address of such owner or person in the United Kingdom or if such address is not known to the Company by being fixed in some conspicuous place on such bridge.

(3.) Or the Company may if they think fit take proceedings for the removal of the said bridge and for that purpose may cause a complaint to be made to a court of summary jurisdiction and the court may thereupon issue a summons to the owner of the bridge or person liable to repair the same and the Company shall at least one month before the hearing of the complaint give notice to the urban or rural sanitary authority of the district in which the bridge is situate of the time and place appointed for the hearing of the summons and such sanitary authority shall be entitled to appear and oppose the application and if the court shall be satisfied that there is no public or private necessity for such bridge the court may make an order requiring the said owner or person to remove the same within a time to be mentioned in the order and if the



order be not complied with the Company may enter upon the lands and remove the bridge and recover the expense thereof from such owner or person : A.D. 1893.

Provided that in any case where the Company are unable after reasonable inquiry to discover the name and address in the United Kingdom of any such owner or person the court may on proof to that effect issue the summons to the urban or rural sanitary authority of the district in which the bridge is situate and if on the hearing of such summons the court shall be satisfied that there is no public or private necessity for such bridge the court may make an order authorising the Company to remove such bridge and thereupon the Company may enter upon the lands and remove the bridge.

**14.** Every person who shall bring put or throw or cause or suffer to be brought put or thrown or to flow into any canal reservoir or feeder or on to any towing-path of the Company any refuse from any manufactory or work or any acids or dye or the contents of any sink sewer or drain or any filthy substance or liquid or any other noxious or offensive matter or who shall do or suffer any act whereby the water in any canal reservoir or feeder of the Company shall be fouled shall for every such offence forfeit to the Company a sum not exceeding five pounds and every such person shall forfeit to the Company a further sum not exceeding forty shillings for each day (if more than one) during which such offence shall be continued after conviction thereof : Penalty for fouling water.

Provided that the word "person" in this section shall not include or have reference to a sanitary authority.

**15.** If any boat or vessel be sunk in any part of the canal or in any branch canal connected therewith and the owner or person in charge of such boat or vessel shall not forthwith weigh draw up or remove the same the following provisions shall apply and have effect :— Removal of sunken vessels and recovery of expenses thereof.

- (1.) The Company may weigh draw up or remove such boat or vessel and detain and keep the same with the tackle and loading thereof until payment be made of all the expenses of or connected with such weighing drawing up removal and detention ;
- (2.) The Company may sell such boat or vessel and the tackle and loading thereof or a sufficient part thereof and may out of the proceeds of the sale pay such expenses and the expenses of such sale returning to the owner of such boat

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or vessel the overplus (if any) and if the proceeds of the sale be insufficient to defray the expenses aforesaid the Company may recover the deficiency from the owner in a court of summary jurisdiction;

(3.) If in the opinion of the Company's engineer or his principal assistant the boat or vessel is so old or damaged that it will be difficult to sell the same as a whole the Company may break up such boat or vessel and sell the materials thereof;

(4.) The Company may if they think fit without exercising the power of sale aforesaid recover the expenses aforesaid from the owner of the boat or vessel in a court of summary jurisdiction.

Penalties.

**16.** Penalties under this Act and penalties under the Act of 1854 and the Act of 1855 may be recovered in a summary manner before a court of summary jurisdiction in accordance with the provisions of the Summary Jurisdiction Acts.

Costs.

**17.** 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 out of any funds in their hands.

The SCHEDULE referred to in the foregoing Act. A.D. 1893.

THE COMPANY OF PROPRIETORS OF THE BIRMINGHAM  
CANAL NAVIGATIONS.

We the undersigned being two members of the committee of management of the Company specially authorised and appointed for this purpose and I the undersigned officer of the Company do hereby declare (each for himself) that the within written mortgage is issued under the borrowing powers of the Company and is not in excess of the amount which the Company are authorised to borrow or re-borrow.

Dated this                      day of    18 .

} *Members of the Committee.*

} *Clerk [or Accountant or as  
the case may be].*

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