



CHAPTER cxlix.

An Act for vesting in a Public Trust to be incorporated A.D. 1895.
for that purpose the Undertaking of the Company of
Proprietors of the Thames and Severn Canal Navigation
and for other purposes. [6th July 1895.]

WHEREAS by an Act passed in the twenty-third year of the reign 23 Geo. 3.
of His Majesty King George the Third (chapter thirty-eight) c. xxxviii.
intituled "An Act for making and maintaining a navigable canal
" from the River Thames or Isis at or near Leachlade to join and
" communicate with the Stroudwater Canal at Wallbridge near the
" town of Stroud and also a collateral cut from the said canal at or
" near Siddington to or near the town of Cirencester in the counties
" of Gloucester and Wilts " the company of proprietors of the Thames
and Severn Canal Navigation (in this Act called "the Company")
were incorporated and authorised to make and maintain the canal
and collateral cut above described (which are in this Act together
called "the canal"):

And whereas the powers of the recited Act were amended and 31 Geo. 3.
enlarged by six subsequent Acts passed respectively in the thirty- c. lxxvii.
first (chapter sixty-seven) the thirty-sixth (chapter thirty-four) the 36 Geo. 3.
forty-ninth (chapter one hundred and twelve) and the fifty-third c. xxxiv.
(chapter one hundred and eighty-one) years of the reign of His 49 Geo. 3.
Majesty King George the Third and in the forty-third (chapter c. cxii.
seventy-one) and fifty-eighth (chapter two hundred) years of the 53 Geo. 3.
reign of Her Majesty Queen Victoria (all which Acts herein-before c. clxxxii.
mentioned are in this Act collectively called "the recited Acts"): 42 & 43 Vict.
c. lxxi.
57 & 58 Vict
c. cc.

And whereas the canal has for many years been completed and in
use:

And whereas the capital of the Company is two hundred and
forty-five thousand pounds divided into two thousand four hundred
and fifty shares of one hundred pounds each all which shares have
been fully paid up and of which one thousand one hundred and fifty
shares are entitled to a preferential dividend at the rate of one
pound ten shillings per centum per annum:

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And whereas the Company have no mortgage debt other than and except sums amounting to two thousand eight hundred and thirty pounds which they have secured by the creation and issue of certain mortgage debentures :

And whereas in consequence of the falling off of the receipts of the canal the Company have for some years past been unable to maintain the whole of the canal in good order and condition or to pay any dividend to the shareholders and the portion of the canal from Chalford to Inglesham has become unfit for navigation and the Company did on the twenty-eighth day of December one thousand eight hundred and ninety-three publish a notice of their intention to close such portion of the canal for through traffic :

And whereas it is expedient that the canal should be repaired and improved but the Company have no funds available for that purpose :

And whereas the company of proprietors of the Stroudwater Navigation the Sharpness New Docks and Gloucester and Birmingham Navigation Company the Severn Commissioners the company of proprietors of the Staffordshire and Worcestershire Canal Navigation and the Wilts and Berks Canal Company (who are in this Act referred to as "the navigations") are interested in the canal as part of the chain of water communication between the river Thames and the river Severn and are desirous that the canal should be maintained in repair and kept open for the purposes of navigation and it is in the public interest that it should be so maintained :

And whereas the County Council of Berkshire the County Council of Gloucestershire the County Council of Wiltshire the mayor aldermen and citizens of the city of Gloucester in the county of the city of Gloucester the Stroud Urban District Council and the Cirencester Urban District Council (who are in this Act referred to as "the public bodies") are also interested in the maintenance of the canal as a waterway and are desirous that it should be maintained in repair and kept open for the purposes of navigation :

And whereas arrangements have been made subject to the sanction of Parliament for the sale and transfer of the undertaking of the Company to a body to be constituted as in this Act provided for the considerations and upon the terms herein-after expressed and it is expedient that the same should be sanctioned and confirmed and that a transfer of the undertaking to such body should be made as in this Act provided :

And whereas it is expedient that provision should be made for the transfer to the said body so to be constituted of the powers and

duties of the Company and that such body should have such power of raising money as in this Act contained:

And whereas it is expedient that the navigations and the public bodies should be respectively authorised and empowered to apply the funds under their control in the manner and to the extent in this Act mentioned for the purposes of this Act:

And whereas the Bill for this Act has been assented to in writing by the holders of upwards of three fourths in value of the mortgage debentures and of the preference shares in the Company respectively and the holders of such three fourths and upwards are nominees on behalf of the Great Western Railway Company who acquired their interest in the undertaking in order that it might be continued open as a waterway and might not be converted into a railway:

And whereas the purposes 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 Thames and Severn Canal Trust Act 1895. Short title.

2. The Lands Clauses Acts (excepting the provisions thereof for the purchase of lands otherwise than by agreement) the following provisions of the Commissioners Clauses Act 1847 (that is to say):— Incorporation of Acts.

Section 37 (election of chairmen of meetings);

Section 38 (manner of voting);

Section 41 (meetings of Commissioners may be adjourned from time to time);

Section 47 (how notices of meetings of Commissioners are to be given);

Section 49 (power to Commissioners to appoint committees);

Section 50 (quorum of committee);

Section 51 (acts of the Commissioners not to be invalidated by reason of vacancies);

Section 52 (informalities in appointment of Commissioners not to invalidate proceedings);

Section 53 (Commissioners may provide public offices &c.);

Section 55 (proceedings to be entered in a book and when signed shall be received in evidence);

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The provisions with respect to the contracts to be entered into and the deeds to be executed by the Commissioners ;

The provisions with respect to the liabilities of the Commissioners and to legal proceedings by or against the Commissioners ;

The provisions with respect to the mortgages to be executed by the Commissioners except section 84 ;

The provisions with respect to the appointment and accountability of the officers of the Commissioners ;

Section 89 (accounts to be kept of receipts and disbursements which shall be open for inspection) ;

Section 90 (statement of accounts to be prepared and to be open for inspection) ;

Section 91 (accounts to be examined and settled at the annual meeting) ;

and the provisions of Part V. (relating to amalgamation) of the Railways Clauses Act 1863 so far as the same respectively are applicable for the purposes of and are not expressly varied by this Act are incorporated with and form part of this Act. The provisions of Part V. of the Railways Clauses Act 1863 shall apply to the Company as if it were a railway company dissolved by this Act and shall apply to the body incorporated by this Act (herein-after called "the Canal Trust") as if that body were an existing railway company and for the purposes of this Act the words "railway companies" in Part V. of the Railways Clauses Act 1863 shall include the Company and the Canal Trust.

Interpretation.

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 such construction :

The expression "the Canal Trust" means the body incorporated by this Act ;

The expression "the Company" means the company of proprietors of the Thames and Severn Canal Navigation ;

The expression "the canal" means the canal collateral cut and waterways and all other the lands and buildings of the Company by this Act transferred to the Canal Trust ;

The expression "the navigations" means the company of proprietors of the Stroudwater Navigation the Sharpness New Docks and Gloucester and Birmingham Navigation Company the Severn Commissioners the company of proprietors of the Staffordshire and Worcestershire Canal Navigation and the Wilts and Berks Canal Company ;

The expression "the public bodies" means the County Council of Berkshire the County Council of Gloucestershire the County Council of Wiltshire the mayor aldermen and citizens of the city of Gloucester in the county of the city of Gloucester the Stroud Urban District Council and the Cirencester Urban District Council ;

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The expression "the recited Acts" means the local and personal Acts of Parliament relating to or affecting the Company ;

For the purposes of this Act the expression "the Commissioners" in the Commissioners Clauses Act 1847 means the Canal Trust ;

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

4. The several persons whose names are mentioned in the First Schedule to this Act who have respectively been nominated by the navigations and public bodies mentioned in the second column of such schedule opposite to such names respectively and their successors from time to time to be appointed in manner herein-after mentioned shall be and are hereby united into a public trust for the purpose of taking over and managing the canal and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "The Thames and Severn Canal Trust" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Incorporation of the Canal Trust.

5. Any of the navigations or public bodies may at any time if they shall think it expedient by resolution remove any member of the Canal Trust nominated on their behalf or elected by them and elect another person in his place as a member of the said Trust.

Removal of trustees.

6. As often as any member of the Canal Trust whether named in this Act or subsequently appointed or elected shall be removed as aforesaid or shall die refuse resign or become disqualified or incompetent to act as a member of the Canal Trust the navigation or public body by or in respect of whom such member was nominated appointed or elected shall within six months next after

Election on vacancies in members of the Canal Trust.

A.D. 1895. such removal death refusal resignation disqualification or incompetency shall have occurred or been made known appoint or elect some other person to be a member of the Canal Trust in his stead.

Notice of election and election by the Canal Trust on default.

7. The clerk or other officer of the navigation or public body authorised to make any such appointment or election as aforesaid shall within seven days after such appointment or election deliver to the Canal Trust or their clerk a statement of the name and place of residence of the person so appointed or elected to be a member of the Canal Trust and in case of any default or neglect in filling up any vacancy or in giving notice thereof in the manner and within the time aforesaid the Canal Trust may at their next or any subsequent meeting elect such person as they shall think proper to supply the vacancy which shall not then have been filled up or to supply the place of any person who may not have been appointed or elected or whose appointment or election shall not have been made known to the Canal Trust.

Meetings and quorum.

8. The Canal Trust shall hold their first meeting at the office of the Company at Brimscombe at one o'clock in the afternoon of the fourth Thursday after the passing of this Act and all subsequent meetings shall be held at such place and at such times as they may from time to time determine and five shall constitute a quorum.

Canal Trust to appoint committee of management.

9.—(1.) The Canal Trust shall within three months from the passing of this Act appoint a committee (to be called "the committee of management") who shall hold office until the next annual meeting of the Canal Trust and shall maintain and manage the canal and other works vested in the Canal Trust by this Act and the committee of management shall exercise such of the powers rights duties or obligations of the Canal Trust as may from time to time be delegated to them by the Canal Trust.

(2.) The committee of management shall consist of not less than five of the members for the time being of the Canal Trust and shall be chosen at the annual meeting in each year or at such other time and in such manner as the Canal Trust shall from time to time determine.

(3.) The Canal Trust may from time to time remove all or any of the members of the committee of management and shall fill up any vacancies which may occur in such committee by removal death disqualification resignation or otherwise.

(4.) The committee of management shall hold its meetings at such place and at such times as they may from time to time determine and three shall constitute a quorum.

(5.) The Canal Trust may pay to the members of the committee of management or any of them such reasonable remuneration for their services and travelling expenses as they shall from time to time deem just and proper and such remuneration shall be considered and is hereby declared to be an expense of maintaining and managing the undertaking properly chargeable to revenue and shall be paid out of revenue accordingly and no member of the said committee shall by reason of his receiving any such remuneration be deemed to hold an office or place of profit under or in the gift or disposal of any navigation or public body by whom or on whose behalf he may have been appointed or elected a member of the Canal Trust. A.D. 1895.

10. The Company shall sell and transfer to the Canal Trust and the Canal Trust shall purchase the undertaking of the Company for the considerations and on and subject to the terms and conditions in this Act contained. Sale and purchase of undertaking.

11. The undertaking of the Company (herein-after called "the undertaking") shall for the purposes of this Act mean and include the canal with the towing-paths buildings lands works tolls rates goods chattels books of account and other books deeds contracts agreements and papers and all the rights powers and property of the Company and the undertaking business and goodwill thereof except any cash balance of the income remaining after satisfying the current revenue liabilities up to the date of the vesting of the undertaking in the Canal Trust. Undertaking defined.

12. On the thirtieth day of September next after the passing of this Act the undertaking of the Company shall in consideration of the payments herein-after required to be made by the Canal Trust and of the conditions in this Act contained in respect thereof be and is hereby transferred to and vested in the Canal Trust for all the estate and interest of the Company therein and shall be held by the Canal Trust for the purposes and subject to the provisions of the recited Acts (in so far as they remain applicable) and of this Act freed and discharged from all trade debts incurred by the Company in respect of the undertaking prior to the transfer but subject to all continuing contracts engagements covenants servitudes obligations and liabilities entered into or incurred by or attaching to the Company relating to the undertaking and subject to all rent-charges rates and charges properly payable out of revenue and accruing on or after the date of transfer. Vesting of undertaking in the Canal Trust.

A Queen's printers copy of this Act shall be chargeable with the same stamp duty as would be chargeable if the transaction effected by this Act were a transaction effected by an executed

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A.D. 1895. instrument in writing and the copy were the instrument and that copy shall within three months from the date of transfer be produced to the Commissioners of Inland Revenue and in default of such production the proper stamp duty with interest thereon at the rate of five pounds per centum per annum from the date of transfer to the day of payment shall be recoverable from the Canal Trust with full costs of suit and all costs and charges attending the same.

Company to discharge all liabilities up to date of transfer.

13. The Company shall pay and discharge all rents rates taxes and outgoings and all obligations and liabilities of every kind existing up to the date of transfer other than the mortgage debentures of the Company herein-after provided for and shall be entitled to all revenue up to that date and if necessary for giving effect to this enactment such revenue rents rates taxes and outgoings shall be apportioned.

Company to wind up its affairs and be released and discharged.

14. As from the date of transfer the Company shall continue to exist only for the purpose of winding up its affairs as provided by this Act and of otherwise carrying into effect the provisions of this Act and shall except for those purposes cease to exercise all and every the rights and powers by the recited Acts and all other Acts relating to or affecting the Company conferred on or vested in the Company in relation to the undertaking and the Company and the proprietors of shares therein shall be and stand wholly released and discharged from all obligations and liabilities whatsoever (whether under the recited Acts or otherwise and whether to the public or the owners of adjoining lands or other persons) in respect of the undertaking or any part thereof or of the maintenance and working of the canal or of the water supply thereto or otherwise.

Company after transfer to recover debts &c.

15. On and from the date of transfer the Company may and shall be entitled to recover and enforce payment of any debts then due to the Company and they shall pay all the then debts and liabilities of the Company and distribute the balance of their funds and effects after deducting such payments and all the expenses of and incident thereto among their shareholders rateably and otherwise carry into effect the provisions of this Act so far as the same relate to the Company and the committee of the Company who are in office at the date of transfer and the survivors or survivor of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned.

Eventual dissolution of the Company.

16. On the completion of the winding up of the affairs of the Company the Company shall be by virtue of this Act dissolved.

17. The several persons named in the second schedule to this Act being the proprietors of the shares in the Company or their respective executors administrators or assigns shall respectively be deemed to be the shareholders in the Company for the purpose of the receipt of the contingent annuities by this Act provided for.

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Defining the
shareholders.

18. If any money is payable to any shareholder in the Company or contingent annuitant under this Act being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company or the Canal Trust for the same.

Receipt in
case of
persons not
sui juris.

19. The Canal Trust shall within six months from the passing of this Act and out of the first five thousand pounds to be raised by them under the provisions of this Act pay to each of the persons mentioned in the first column of the Third Schedule to this Act who are the holders of the mortgage debentures issued by the Company and now outstanding and undischarged the sum set opposite to their respective names in the second column of the same schedule and the same shall be received by him or her in full discharge of all moneys due to him or her for principal and interest under the said mortgage debentures. If such payment shall not be made within the said period of six months the Canal Trust shall pay interest upon the amount so to be paid at the rate of five pounds per centum per annum from the expiration of such period until the date of payment.

Canal Trust
to pay off
mortgage
debentures
of the
Company.

20. From and after the transfer of the undertaking of the Company the recited Acts and all other Acts relating to or affecting the Company or the undertaking or any part thereof in force at the transfer (except so far as they are by this Act varied or repealed and except the provisions relating to shareholders and capital and any other provisions inapplicable to the Canal Trust) shall remain in full force and all rights and powers thereby conferred on and vested in the Company in relation to the undertaking whether alone or jointly with any other company or person may be enjoyed and exercised by the Canal Trust in relation to the undertaking and all matters to be done continued and completed or which but for the transfer would might or could be done continued or completed by the Company or their general committee or sub-committees or other committees or any members thereof or their officers or servants under or by virtue of those Acts or any of them shall or may be done continued or completed by the Canal Trust and any general or other committees to be appointed by them or the members thereof or their officers and servants as the case may be and every such Act

Canal Trust
may exercise
the powers
of the
Company.

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so far as it relates to the Company or the undertaking shall be read and construed as if the Canal Trust had been named or referred to therein in relation to such undertaking instead of the Company.

Actions &c.
not to abate.

21. Except as by this Act otherwise provided any action suit prosecution or other proceeding by or against the Company pending or existing at the date of transfer and vesting shall not abate or be discontinued or be prejudicially affected by the transfer but the same may from and after the transfer be continued and take effect by in favour of and against the Canal Trust in the same manner as it might have been continued and taken effect by in favour of and against the Company if the transfer had not taken place but not further or otherwise.

Books &c.
to be
evidence.

22. All books and documents which would have been evidence in respect of any matter for or against the Company shall from and after the transfer of the undertaking be admitted as evidence in respect of the same or the like matter for or against the Canal Trust.

Byelaws
to remain in
force.

23. All the byelaws rules and regulations of the Company relating to the management use or control of the undertaking in force at the transfer shall from and after the transfer continue to be in force and applicable to and in respect of the undertaking and shall and may be enforced by and be available to the Canal Trust in their own name as well for the recovery of penalties as for all other purposes until the same are altered or repealed or other byelaws rules and regulations duly made in their stead by the Canal Trust.

General
saving of
rights under
Acts.

24. Except as by this Act otherwise provided everything before the transfer of the undertaking done suffered or confirmed under or by virtue of any of the recited Acts or any other Act relating to the Company or the undertaking shall be as valid as if the transfer had not been made and as if this Act had not been passed and the transfer and this Act respectively shall accordingly be subject and without prejudice to everything so done suffered and confirmed and to all rights liabilities claims and demands both present and future which if the transfer had not happened and this Act had not been passed would be incident to or consequent on any and every thing so done suffered and confirmed.

Power to
improve
canal.

25. The Canal Trust may and shall after the transfer and subject to the provisions of the recited Acts or any other Act relating to the Company dredge scour cleanse deepen repair amend restore renew alter and improve the canal cut reservoirs basins wharves towing-

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paths aqueducts channels culverts weirs locks bridges tunnels houses warehouses and other works property conveniences and premises forming part of the undertaking transferred to them by this Act and shall manage and develop the canal and existing works and may upon any lands for the time being belonging to them make additional wharves and works for the accommodation of traffic and may acquire by agreement not exceeding in the whole ten acres of land for those purposes and may improve the existing methods of towing and generally may do all acts or things necessary proper or convenient for putting the undertaking in good and efficient order repair and condition and for the management and improvement of the undertaking and the development of the traffic thereon and they shall not use or apply or permit the undertaking or any part thereof to be used or applied as a railway or for any railway purpose but shall subject to the provisions of this Act maintain the canal as a waterway Nothing in this section shall exempt the Canal Trust from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any land so taken.

26. The Canal Trust shall not under the powers of this Act acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans 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 such persons who may be residing with them.

27. The Canal Trust may after the transfer to them and notwithstanding anything contained in the recited Acts or any other Act relating to the Company sell convey exchange demise or otherwise dispose of any lands buildings or property for the time being forming part of the undertaking other than the canal and the towing path and the banks and slopes thereof and not required for the purposes of the undertaking Provided always that in the event of the canal being abandoned the powers of taking water from the

Power to sell surplus lands &c.

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A.D. 1895. land at Thames Head surrounded by land belonging or reputed to belong to Michael Biddulph shall cease and so long as the canal continues and water is pumped into it from Thames Head no greater quantity of water than at present shall be used or disposed of for purposes other than those of the canal.

Moneys
received for
surplus lands
&c.

28. Any moneys received by the Canal Trust in respect of any sale conveyance exchange or other disposition of any lands buildings or property not required for the purposes of the undertaking or by way of fine or premium on any lease of such lands buildings or property shall be applied by the Canal Trust in or towards paying off moneys borrowed and for the time being owing under this Act or in payment of the expenses of executing works or repairs of a lasting and permanent character but not in making any payments which are properly chargeable against revenue.

Board of
Trade may
authorise
abandonment
of canal &c.

29. If at any time it shall be shown by the Canal Trust to the satisfaction of the Board of Trade that having regard to the conditions of trade or otherwise the tolls and other income received in respect of the undertaking have been found for a period of two successive years to be insufficient for the payment of the expenses of managing and maintaining the undertaking and the other expenses incidental thereto the Board of Trade may make an order authorising the Canal Trust to abandon the undertaking and to sell and dispose of the bed and site of the canal and the other lands and property by this Act vested in them Provided always that nothing in this Act or in any such order contained shall authorise the canal or any part thereof or any land belonging thereto to be used as a railway or for any railway purpose And the Canal Trust shall apply the proceeds of any such sale to the discharge of any moneys borrowed by them under the powers of this Act and of any other liabilities incurred by them in the execution of the powers conferred on them by this Act and any surplus remaining after the discharge of the said moneys borrowed and other liabilities as aforesaid shall be applied by the Canal Trust to the repayment of any moneys contributed by the navigations or by the public bodies or any of them for the payment of interest on the moneys borrowed as aforesaid or for any other of the purposes of this Act with interest at the rate of four pounds per centum per annum thereon And the surplus (if any) shall be paid to and amongst the contingent annuitants herein-after mentioned in proportion to the number of shares set forth opposite to their names in the Second Schedule to this Act without any priority as between the preference shareholders and the ordinary shareholders.

30. Before the Canal Trust sell or dispose of any part of the bed or site of the canal or of any lands buildings or property forming part of the undertaking they shall offer to sell the same in the same manner as if the same were superfluous lands within the meaning of section 128 of the Lands Clauses Consolidation Act 1845 and the provisions of the said Act with respect to the sale of any superfluous lands shall extend and apply and have effect with respect to the sale or disposal of any part of the said bed or site or of any of the said lands buildings or property.

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 Lands Clauses Consolidation Act 1845 to apply to sales.

31. Subject to the provisions of this Act the Canal Trust may from time to time and they are hereby authorised to borrow and re-borrow on mortgage of the undertaking or any part thereof any sum or sums of money not exceeding in the whole the sum of fifteen thousand pounds for the following purposes (that is to say) :—

Power to borrow and re-borrow.

- (A) The payment of all costs charges and expenses properly incurred by the navigations and the public bodies in negotiating for the acquisition of the canal and preliminary to and of and incidental to preparing for obtaining and passing this Act or otherwise in relation thereto ;
- (B) The payment to the holders of the mortgage debentures issued by the Company and now outstanding and undischarged as herein-before provided ;
- (C) The payment of the expenses of dredging scouring and repairing the canal and improving the waterway banks bridges locks wharves and towing-paths thereto belonging and making additional wharves and works for the accommodation of traffic and generally of doing all acts and things necessary proper or convenient for putting the undertaking into good and efficient order repair and condition.

32. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal 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 the appointment of a receiver.

33. All moneys to be raised by the Canal Trust on mortgage of the undertaking under the provisions of this Act shall have priority against the Canal Trust and the property from time to time of the Canal Trust over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided that this priority shall not affect any claim against the

Priority of mortgages over other debts.

A.D. 1895. Canal Trust or their property in respect of any rent or other sum reserved by or payable under any lease or agreement granted to or made with the Company for or in respect of any lands water rights or other conveniences granted to or held by the Company and by this Act vested in the Canal Trust which is entitled or of right ought to rank in priority to or *pari passu* with the interest on the mortgages authorised by this Act.

Tolls for
merchandise.

57 & 58 Vict.
c. cc.

Application
of revenue.

34. The Canal Trust may from time to time fix alter or vary all or any of the tolls and charges made or imposed for the use of the undertaking or any part thereof as they shall think fit Provided that the maximum tolls and charges which the Canal Trust shall be entitled to charge in respect of merchandise traffic shall be the tolls and charges specified with reference to the Thames and Severn Canal in the schedule to the Canal Tolls and Charges No. 7 (River Ancholme &c.) Order Confirmation Act 1894 and shall be subject to the classification regulations and provisions set forth or referred to in the said schedule.

35. All moneys from time to time received by the Canal Trust by way of revenue in respect of the undertaking or any part thereof shall be applied as follows (that is to say):—

- (A) In paying and providing for the rents rentcharges rates and taxes payable by the Canal Trust;
- (B) In paying and providing for the expenses properly chargeable to revenue of maintaining and managing the undertaking and of keeping the same in efficient repair;
- (C) In paying the salaries wages and other expenses of carrying on the undertaking and of exercising the powers acquired by the Canal Trust;
- (D) In payment of the interest on any moneys for the time being borrowed and owing under this Act;
- (E) In providing for the payment of an annual sum equal to four pounds per centum of the amount borrowed under this Act to be carried to a sinking fund and accumulated and applied from time to time in accordance with the provisions of this Act;
- (F) In repayment of the moneys which may from time to time have been contributed by the navigations and the public bodies or any of them under the powers in this Act contained and interest at the rate of four pounds per centum per annum thereon and which moneys and interest shall be a charge on the undertaking subject to the mortgages hereby authorised;
- (G) In providing for the discharge of any moneys borrowed and owing under this Act.

36.—(1.) The date for the first payment into the sinking fund in respect of any sum borrowed under this Act shall be the twenty-fifth day of March one thousand nine hundred and one.

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—
First pay-
ment into
and invest-
ment of
sinking
fund.

(2.) All sums paid into the sinking fund shall be as soon as may be invested by the Canal Trust in securities in which trustees are for the time being authorised to invest or in the mortgages bonds debentures stock or other securities (not being annuities or securities payable to bearer) authorised by Act of Parliament of any local authority as defined by the Local Loans Act 1875 and any such investments may be from time to time varied or transposed and all dividends and other sums received in respect of such investments shall as soon as may be after they are received or become payable be paid into the sinking fund and be invested by the Canal Trust in like manner.

37.—(1.) The Canal Trust may at any time apply the whole or any part of the sinking fund in or towards the discharge of the moneys or any part of the moneys for the discharge of which the fund was created.

Application
of sinking
fund.

(2.) If and whenever the value of the securities standing to the credit of the sinking fund shall at the market price of the day be equal to the principal moneys then due and outstanding the Canal Trust in lieu of investing the yearly income arising from the sinking fund shall apply the same in payment of the interest of the principal moneys then due and outstanding and may during such periods discontinue the payments to the sinking fund of the yearly sums herein-before required to be paid thereto.

38. In each year after the expiration of ten years from the thirtieth day of September next after the passing of this Act in which the net revenue shall be more than sufficient to meet the payments thereout herein-before mentioned other than the payment distinguished by the letter (g) in the section of this Act whereof the marginal note is "Application of revenue" the Canal Trust shall pay to and among the present shareholders in the Company whose names are set out in the Second Schedule to this Act and their respective executors administrators and assigns (all of whom are comprised in the term "the contingent annuitants") and in proportion to the number of shares set forth opposite to their names in the same schedule and without any priority as between the preference shareholders and the ordinary shareholders the balance of such net revenue not exceeding three hundred pounds and in each year after the expiration of fifteen years from the date aforesaid the balance of such net revenue not exceeding six hundred pounds and shall

Contingent
annuities.

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continue to make such last-mentioned payments so long as the canal is maintained and worked as a waterway and from and after the expiration of the said ten years such payments respectively shall be made in priority to the payment distinguished by the letter (g) in the said section.

If in any year after the said sum of three hundred pounds or the said sum of six hundred pounds becomes payable as aforesaid the moneys received by the Canal Trust by way of revenue shall prove insufficient after discharging the payments mentioned in the said section other than the payment distinguished by the letter (g) to pay the whole or any part of the said sum of three hundred pounds or of the said sum of six hundred pounds as the case may be the contingent annuitants shall have no claim or right against the moneys received by the Canal Trust in any subsequent year or years for the payment of the said sum of three hundred pounds or of the said sum of six hundred pounds as the case may be or so much thereof respectively as shall not have been paid to the contingent annuitants in any preceding year or years.

Distribution
of annual
sums
amongst
contingent
annuitants.

39. The Canal Trust shall issue to each of the contingent annuitants in exchange for his certificate of shares in the Company a certificate of his right to participate in the said sum of three hundred pounds or the said sum of six hundred pounds as the case may be or so much thereof respectively as shall be payable in any year rateably according to his shares in the Company and shall distribute such sums accordingly amongst the contingent annuitants and their respective executors administrators or assigns according to the number of shares held by them respectively in the Company and the Canal Trust shall keep a register of the contingent annuitants and shall make proper entries therein of the devolution of their respective interests in the said annual sums.

Statement
and balance
sheet to be
sent to
contingent
annuitants.

40. The Canal Trust shall within three months after the thirtieth day of September in every year send to each of the contingent annuitants a statement of the income and expenditure during the twelve months ending on such thirtieth day of September and also a balance sheet containing a summary of the property and liabilities of the Canal Trust and the books of account of the Canal Trust shall subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Canal Trust be open to the inspection of the contingent annuitants during the hours of business.

Application
of surplus
revenue.

41. If in any year or years the amount which the Canal Trust shall receive by way of revenue from the undertaking shall be more than sufficient to provide for all the payments thereout herein-before

mentioned the surplus thereof shall not be applied by way of dividend or bonus to the Canal Trust or to the navigations or public bodies or any of them but the Canal Trust shall apply such excess of revenue in manner following (that is to say):—

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(A) In making any improvements for facilitating increasing or developing the traffic upon the canal; and

(B) In forming a reserve fund of not exceeding five thousand pounds to provide for any exceptional and unexpected outlay in the repair maintenance or improvement of the canal:

When and so soon as the said reserve fund shall amount to the sum of five thousand pounds the Canal Trust shall make such reductions in the tolls and charges made or imposed by them for the use of the undertaking or any part thereof as shall reduce the revenue arising from the undertaking as nearly as may be to the amount required to provide for all the payments thereout herein-before mentioned. Nothing herein contained shall be construed so as to prevent the Canal Trust from raising the tolls and charges made and imposed by them to the same amount as before the said reduction if and whenever the reserve fund shall be less than five thousand pounds.

42. If in any year or years the moneys which the Canal Trust shall receive by way of revenue shall be insufficient to discharge the payments distinguished by the letters (A) (B) (C) and (D) in the section of this Act whereof the marginal note is "Application of revenue" the Canal Trust shall within three months after the thirtieth day of September send a statement to each of the navigations showing the amount of the receipts on account of revenue and the amount of the payments distinguished by the said letters (A) (B) (C) and (D) properly chargeable against such revenue during the twelve months ending on such thirtieth day of September and shall state the amount required by the Canal Trust to enable them to make good the deficiency in the revenue available to meet the said payments.

In case of deficiency of revenue the Canal Trust to issue a statement thereof.

43. Within one month after the receipt of such statement each of the navigations shall make and send to the Canal Trust a return showing the amount of the tolls and charges received by them respectively during each of the three years ending on such thirtieth day of September in respect of through traffic passing over their respective undertakings either from or to the canal of the Canal Trust or any part thereof and for the purpose of verifying such returns each of the navigations shall when so required by the Canal Trust produce to the Canal Trust or their clerk or accountant all books returns papers and other evidences showing the amount

The navigations to make returns as to through traffic.

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of the tolls and charges received by them respectively in respect of such through traffic as aforesaid and shall furnish all other necessary information which may be required by the Canal Trust or their clerk or accountant in reference thereto. Provided that none of the navigations shall be required to make again a return for any year in respect whereof such navigation has already made a return as aforesaid.

Canal Trust
to apportion
deficiency or
not exceed-
ing six
hundred
pounds a
year amongst
the navi-
gations.

44. Within one month from the receipt or verification of the said returns so to be made by each of the navigations the Canal Trust shall apportion the amount required to make good the deficiency in any year or in the event of such deficiency exceeding the sum of six hundred pounds shall apportion the sum of six hundred pounds amongst the navigations and such apportionment of the sum of six hundred pounds shall be made in manner following:—

The amount to be paid by the company of proprietors of the Stroudwater Navigation shall be one hundred and fifty pounds;

The amount to be paid by the company of proprietors of the Staffordshire and Worcestershire Canal Navigation shall be three fourths of the amount of one year's tolls received by them in respect of through traffic passing over their undertaking from or to the canal or any part thereof on the average of the three years up to the thirtieth day of September then last preceding but the amount to be so paid shall not in any year be more than three fourths of the amount of one year's tolls received by the said company in respect of such through traffic as aforesaid on the average of the three years ending on the thirtieth day of September one thousand eight hundred and ninety-four;

And the balance of the said sum of six hundred pounds shall be apportioned amongst the other navigations rateably in proportion to the amount of tolls received by each of them respectively in respect of through traffic passing over their respective undertakings either from or to the canal or any part thereof on the average of the three years up to the thirtieth day of September then last preceding and such balance shall be paid by the other navigations whether the same shall have been received by them in respect of such tolls or not:

And in case the amount required in any year shall be less than six hundred pounds the amount to be contributed by each of the navigations shall be proportionately reduced:

And the Canal Trust shall send to each of the navigations a precept stating the amount to be paid by each of the navigations towards the deficiency or towards the sum of six hundred pounds as the case may be.

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45. If in any year or years during the period of five years from the thirtieth day of September next after the passing of this Act the contributions so to be made by the navigations as herein-before provided shall be insufficient to make good the whole of such deficiency of the expenses of maintenance and of interest as aforesaid the Canal Trust shall make and send to each of the navigations and public bodies a statement showing the amount of their receipts on account of revenue and the amount of their expenditure properly chargeable against such revenue as aforesaid and showing the amount received from the navigations in respect of their contributions and shall state the amount (if any) still required to enable the Canal Trust to discharge the payment of interest distinguished by the letter (D) in the section of this Act whereof the marginal note is "Application of revenue" And in every subsequent year after such period of five years the Canal Trust shall make and send to each of the navigations and public bodies a statement showing such particulars as aforesaid and also the amount (if any) still required to enable the Canal Trust to discharge not only the payment of interest distinguished by the letter (D) but also the payment to the sinking fund distinguished by the letter (E) in the same section. And the Canal Trust shall apportion the amount required to make good the deficiency for the time being so shown to exist in respect of interest or of interest and sinking fund as aforesaid (as the case may be) amongst the navigations and public bodies in the proportions and manner herein-after provided and shall send to each of the navigations and public bodies a precept stating the amount to be paid by each of the navigations and public bodies towards the deficiency.

Contributions by the navigations and the public bodies towards any further deficiency.

46. The contributions to be paid by each of the navigations and public bodies towards the deficiency mentioned in the immediately preceding section shall every year be apportioned by the Canal Trust in manner following (that is to say) one half of such deficiency shall be apportioned amongst the navigations rateably in proportion to the increase in the amount of the tolls received by them respectively in respect of through traffic passing over their respective undertakings either from or to the canal or any part thereof for one year on the average of the three years up to the thirtieth day of September then last preceding over the amount of one year's tolls

Proportions in which further deficiency is to be contributed.

A.D. 1895. received by them respectively in respect of such traffic on the average of the three years ending on the thirtieth day of September one thousand eight hundred and ninety-four Provided that the contribution to be paid by each of the navigations under this section shall not in any year exceed one half of such increase in the amount of the tolls received by such navigation and provided that the amount to be paid by the company of proprietors of the Stroud-water Navigation under this section shall not in any year exceed one hundred and fifty pounds The remaining half and also such further part (if any) of the deficiency as the contributions to be paid by the navigations under this section shall be insufficient to make good shall be apportioned amongst the public bodies in the proportions following :—

The County Council of Berkshire	-	One-sixth part
The County Council of Gloucestershire	-	Three-eighth parts
The County Council of Wiltshire	-	One-sixth part
The Mayor Aldermen and Citizens of the City of Gloucester	-	One-eighth part
The Stroud Urban District Council	-	One-twelfth part
The Cirencester Urban District Council	-	One-twelfth part

Provided that the total amount of the contributions payable by the public bodies under this section shall not in any year exceed six hundred pounds and the total amount of the contributions payable by the navigations under this section shall not exceed in any year the total amount payable by the public bodies in that year.

Navigation and public bodies to pay their shares of deficiency.

47. Within three months from the sending of any precept by the Canal Trust each of the navigations and public bodies shall pay to the Canal Trust the amount shown thereon to be due as its contribution towards the deficiency. And any such contribution if not paid within the time herein-before specified may be recovered by the Canal Trust in a summary manner or by action from the navigation or public body so in default.

Temporary suspension of the liability of the navigations.

48. Notwithstanding any of the provisions of this Act no contribution shall be required from or be payable by any of the navigations under this Act unless and until the majority of the members of the Canal Trust appointed by the navigations shall be satisfied that there is a reasonable prospect of such works for the improvement of the navigation of the upper part of the River Thames as will enable a vessel drawing four feet of water to navigate that river from Inglesham to King's Weir near Oxford in the ordinary state of the water being carried out within a reasonable time and such satisfaction may be certified by a memorandum in writing signed by such majority.

49. Notwithstanding any of the provisions of this Act no contribution shall be required from or be payable by any of the public bodies under this Act unless and until the majority of the members of the Canal Trust appointed by the public bodies shall be satisfied that there is a reasonable prospect of such works for the improvement of the navigation of the upper part of the River Thames as will enable a vessel drawing four feet of water to navigate that river from Inglesham to King's Weir near Oxford in the ordinary state of the water being carried out within a reasonable time and such satisfaction may be certified by a memorandum in writing signed by such majority.

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Temporary suspension of the liability of the public bodies.

50. The liabilities of the navigations and public bodies to make up any such deficiencies as aforesaid shall cease at the expiration of thirty years from the passing of this Act or at any earlier time at which the whole of the moneys borrowed under this Act and the interest thereon have been fully paid and satisfied.

Cesser of liability of navigations and public bodies.

51. Each of the navigations is hereby authorised and empowered to pay all its contributions under this Act out of any moneys received by it by way of revenue as if such contributions were an expense properly incurred in the management of the undertaking belonging to such navigation and every such contribution shall be deemed and is hereby declared to be an expense properly chargeable against the revenue of the navigation paying the same And all moneys received by the navigations whether for principal or interest in repayment of any sums so contributed by them as aforesaid shall be received and applied by them respectively as if the same were and formed part of the ordinary revenue of their respective undertakings.

Navigations to pay contributions out of income.

52. Each of the public bodies is hereby authorised and empowered to pay all its contributions under this Act out of any rates revenues or other income levied imposed or received by such public body as if such contributions were an expense properly incurred under the powers vested in such public body and every such contribution shall be deemed and is hereby declared to be an expense properly chargeable against such rates revenues and other income as aforesaid And all moneys received by the public bodies whether for principal or interest in repayment of any sums so contributed by them as aforesaid shall be received and applied by them respectively as if the same were and formed part of the rates revenues or other income from time to time levied imposed or received by them respectively.

Public bodies to pay contributions out of income.

53. Any statement return precept notice or other document required to be sent under this Act may be sent by post as a prepaid letter and shall be deemed to have been received at the time when the same would be delivered in the ordinary course of post and in

Service of statements &c.

[Ch. cxlix.] *Thames and Severn Canal Trust* [58 & 59 Vict.]
Act, 1895.

A.D. 1895. proving such sending it shall be sufficient to prove that the statement return precept notice or other document was properly addressed and posted.

Navigations not to alter tolls &c. on through traffic.

54. The navigations shall not make any variation or alteration in the amount of the tolls or charges levied or imposed by them respectively for the use of their respective undertakings so far as the same affect traffic from or to the canal or any part thereof or in their arrangements or regulations affecting such traffic which in the opinion of the Canal Trust would tend to reduce the amount of the tolls or charges receivable by the navigations respectively for such traffic without first obtaining the consent thereto of the Canal Trust or of an arbitrator to be appointed as herein-after mentioned in case of difference or unless such alteration of the tolls or charges shall apply to all traffic of a similar nature over the undertaking as to which any such alteration shall be made.

Arbitration clause.

55. If any difference doubt or question shall arise between the contingent annuitants and the Canal Trust or between the navigations and the Canal Trust or between the public bodies and the Canal Trust or between any of them as to the propriety of or necessity for any payment made or proposed to be made out of the revenue of the canal or touching the construction meaning or effect of any clause or thing herein contained or the respective rights or liabilities of the parties or any of them under this Act or otherwise in relation to the premises the same shall be referred to the determination of an arbitrator to be appointed by the Board of Trade on the application of any of the parties.

For the protection of the conservators of the River Thames.

56. Nothing in this Act shall in any way interfere with take away abridge or affect any jurisdiction rights powers or privileges vested in or enjoyed by the conservators of the River Thames but such jurisdiction and all such rights powers and privileges shall remain in full force and effect.

Provision as to general Canal Acts.

57. Nothing in this Act shall be deemed or construed to exempt the canal from the provisions of any general Act now in force or which may hereafter be passed relating to canals or from any future revision or regulation under the authority of Parliament of the maximum tolls and charges authorised to be received for the use of the canal.

Costs of Act.

58. All costs charges and expenses properly incurred by the navigations and the public bodies or any of them in the negotiation for the acquisition of the canal and preliminary to and of and incidental to preparing for obtaining and passing this Act or otherwise in relation thereto shall be paid by the Canal Trust out of the moneys to be borrowed by them under this Act.

The SCHEDULES referred to in the foregoing Act.

A.D. 1895.

FIRST SCHEDULE.

Names of Members of the Canal Trust.	By whom Appointed.
Edward Caruthers Little - Walter John Stanton - Charles Henry Hooper -	} The Company of Proprietors of the Stroudwater Navigation.
Sir Wm. Henry Marling Bart. - Thomas Nelson Foster - Hubert Waddy -	} The Sharpness New Docks and Glou- cester and Birmingham Navigation Company.
George Edward Martin - Thomas Southall -	} The Severn Commissioners.
Henry Ward - John Neve -	} The Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation.
Charles Hoskins Master - Wm. John Ainsworth -	} The Wilts and Berks Canal Company.
Rt. Hon. Lord Wantage V.C. K.C.B. - Hugh William Russell -	} The County Council of Berkshire.
Sir John Edward Dorington Bart. M.P. - Wilfred Joseph Cripps C.B. -	} The County Council of Gloucestershire.
Ambrose Denis Hussey-Freke - Thomas Brain -	} The County Council of Wiltshire.
Henry Mousell - Albert Buchanan -	} The Mayor Aldermen and Citizens of the City of Gloucester in the County of the City of Gloucester.
Mark Bell Marshall - Marcus Gage Cartwright -	} The Stroud Urban District Council.
Henry Zachary - Edward Clare Sewell -	} The Cirencester Urban District Council.

A.D. 1895.

SECOND SCHEDULE.

CONTINGENT ANNUITANTS with the NUMBER of SHARES held by each.

Names.	Number of Shares.	
	Original.	New.
Adams Thomas and Waddy Henry - - - -	—	5
Bathurst Earl - - - - -	10	—
Bartley George Christopher Trout Burnet Mary Ann Titley Bartley Catherine Hyndman and Holt George Wells -	—	51
Crowdy William Slatter - - - - -	4	—
Cripps William Harrison - - - - -	—	10
Dashwood Sir George John Egerton Bart. - - - -	32	—
Digby Rev. Kenelm Henry - - - - -	—	5
Edgcombe Lieut.-Colonel Hon. Charles Ernest - - -	5	—
Ellis Edmund Viner and Waddy Henry - - - - -	5	4
Foster Thomas Nelson and Waddy Henry - - - - -	—	5
Frere John Tudor Festing Rev. John Wogan and Frere George Edgar - - - - -	—	5
Glyn Mills Currie and Co. - - - - -	938	988
Higginson Rev. Henry deceased executor of - - - -	12	2
Hooper Robert Nathaniel and Waddy Henry - - - -	4	1
Holland Thomas - - - - -	—	3
Holt Robert Durning - - - - -	10	—
Hobhouse Henry - - - - -	10	—
Hubbard Alexander - - - - -	100	—
Marling Sir William Henry and Waddy Hubert - - -	—	5
Mortimer Charles - - - - -	10	—
Murdock Charles Townshend - - - - -	10	—
Newton Thomas Henry Goodwin - - - - -	10	2
Playne Arthur Twisden Meinertzhagen Daniel and Hobhouse Henry - - - - -	10	—
Parker Admiral Sir William executor of - - - - -	—	1
Paine William Henry M.D. - - - - -	—	4
Rainbach Thomas Emmerson - - - - -	3	—
Robinson Walter - - - - -	100	—
Rose Henry - - - - -	—	3
Stanton Alfred John and Waddy Henry - - - - -	5	—
Scratton John executors of - - - - -	—	24
Saunders Frederick George - - - - -	3	—
Tart James and Rastall Edward - - - - -	4	—
Taunton John Hook executors of - - - - -	—	5
Vine Mary Vine Charles and Vine William - - - -	5	—
Webb William Darleston deceased executors of - - -	—	9
Watson Barclay Fielder - - - - -	5	5
Watson Barclay Fielder Morshead Walter and Salt John Charles - - - - -	—	5
Watson John Herman and Cornell Martin - - - - -	—	8
Wills Sir William Henry Baronet - - - - -	5	—
	1,300	1,150

THIRD SCHEDULE.

A.D. 1895.

The HOLDERS of MORTGAGE DEBENTURES with the AMOUNTS payable to them in full.

Name of Holders.	Amount Payable in Full.
	£ s. d.
Black Harriet Mitford John and Pollock Ernest Murray -	297 15 0
Bartley George Christopher Trout - - - -	26 5 0
Mills George Kaye and Bolter Albert Ernest -	1,730 5 0
Watson Barclay Fielder Morshead Walter and Salt John Charles -	68 5 0
	£2122 10 0

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