CHAPTER xl.

An Act to amend the Acts relating to the Company of Proprietors of the Coventry Canal Navigation; and for other purposes. [3rd June 1881.]

A.D. 1881.

WHEREAS by an Act passed in the eighth year of the reign of King George the Third, intituled "An Act for making and "maintaining a navigable canal from the city of Coventry, to "communicate upon Fradley Heath, in the county of Stafford, "with a canal now making between the rivers Trent and Mersey," (herein-after referred to as "the principal Act"), the Company of Proprietors of the Coventry Canal Navigation (herein-after called "the Company") were incorporated, and were authorised to make and maintain a canal from the city of Coventry, in the county of Warwick, to Fradley, in the county of Stafford, there to communicate, upon Fradley Heath, with a canal then being made between the rivers Trent and Mersey, and the Company were for that purpose authorised to raise money to the extent of fifty thousand pounds, in five hundred shares of one hundred pounds each, and in case that sum were found insufficient for completing the said canal the Company were authorised to raise by shares a further sum not exceeding thirty thousand pounds:

8 Geo. 3. c. 36.

And whereas by an Act passed in the twenty-sixth year of the reign of King George the Third, intituled "An Act to enable the "Company of Proprietors of the Coventry Canal Navigation to "complete the said canal to Fradley Heath, in the county of "Stafford, and for other purposes therein mentioned" (herein-after called "the Act of 1786"), the Company were authorised to borrow the sum of forty thousand pounds; and that sum, or some portion thereof, was borrowed, but has all been long since repaid; and the Company have now no money borrowed under the powers of the said Act; and it is expedient that the Company should be authorised to raise additional capital by shares or borrowing:

26 Geo. 3. c. 30.

And whereas by the principal Act it was provided that no person should be proprietor of more than ten shares, or, in a certain event,

A.D. 1881.

of more than fifteen shares in the Company (unless the same should come to him by will or act of law), upon pain of forfeiture to the Company of all such shares exceeding the number so prescribed, but these provisions were by the Act of 1786 altered, and it was by that Act provided that any person might have liberty to be possessed of any number of shares not exceeding thirty, but that if any person should become proprietor of more than thirty shares (unless the same should come to him by will or act of law), he should incur the penalty of forfeiture as to all such shares exceeding thirty; and whereas it is expedient that all restrictions upon and forfeitures in consequence of possessing any number of shares of the Company should be abolished:

59 Geo. 3. c. lxii.

And whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act for amending "several Acts of His present Majesty relating to the Coventry "Canal Navigation" (herein-after called "the Act of 1819"), the proprietors of shares in the Company were authorised to dispose of or transfer any one-tenth part or more tenth parts of a share of one hundred pounds, and provision was made that the holder of ten of such tenth parts should be entitled to the same privileges and advantages, and be subject to the same restrictions as all other holders of shares of one hundred pounds:

And whereas by the Act of 1819 it is provided that it should be lawful for the persons, present at any general assembly of the Company, possessed of one hundred shares, or of shares and decimal parts thereof to the amount of one hundred shares, to act as a general assembly in like manner as persons possessed of two hundred shares were authorised to act under the provisions of the principal Act; and it is expedient that the number of shares required to be held by persons so present to qualify them to act as aforesaid should be further reduced:

And whereas it is by the principal Act provided that no person shall give or deliver more proxies at any general assembly than for five absent proprietors; and it is expedient that such restriction should be removed:

And whereas it is by the principal Act provided that paving-stones, gravel, sand, and all other materials for making and repairing of roads, shall not be charged with or be liable to pay rates, duties, or tolls authorised by the said Act to be taken on the Coventry Canal Navigation, so that they do not pass through any lock authorised to be made by virtue of the said Act but at such times when the water shall flow over such lock, and that the person owning, or concerned, or employed in carrying such materials should have free liberty to make use of the towing-paths, wharfs,

or quays belonging to the Company; and it is expedient that such exemption should be restricted to materials for making and repairing roads in the vicinity of the Coventry Canal:

And whereas by the fifty-fourth section of the principal Act it is provided that alterations to be made from time to time on the rates, tolls, or duties to be taken by virtue of that Act should, before being put in force, be approved by a meeting of certain commissioners appointed by that Act to settle differences between the Company and the persons interested in the lands affected by the execution of the powers of that Act, but no such body of commissioners now exists, and it is expedient that the said section should be repealed:

And whereas it is expedient that the Acts relating to the Company should in the above and other respects be amended:

But the aforesaid objects 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):

Short title.

1. This Act may be cited for all purposes as the Coventry Canal Navigation Act, 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

2. The provisions of the Companies Clauses Consolidation Act 1845, with respect to the following matters (that is to say): the distribution of the capital of the Company into shares, the transfer or transmission of shares, the payment of subscriptions, and the means of enforcing the payment of calls, the forfeiture of shares for nonpayment of calls, the remedies of creditors of the Company against the shareholders, the borrowing of money by the Company on mortgage or bond, the conversion of the borrowed money into capital, the consolidation of the shares into stock, and the provision to be made for affording access to the special Act by all parties interested; and Part I. (relating to the cancellation and surrender of shares); Part II. (relating to additional capital), of the Companies Clauses Act 1863, and the Companies Clauses Act 1869, are, except where expressly varied by this Act, incorporated with and form part of this Act, and shall, so far as applicable, extend to the capital of the Company as existing at the commencement of this Act as well as to any additional capital which may be raised under the powers of this Act, and all the provisions of the recited Acts relating to the share capital of the Company, and to any money borrowed by the Company, so far as inconsistent with

26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.

A.D. 1881.

the provisions of the said Acts herewith incorporated, wholly or partially, are from the commencement of this Act repealed.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the word "person" or "persons" includes any incorporated company or other corporation aggregate or sole; and in the Acts wholly or partially incorporated with this Act the expression "the special Act" means this Act; the expressions "the Company," and "the Undertakers" and "the promoters of the undertaking" mean the Company; the expression "the directors" includes the general committee and any other committee of proprietors of the Company; the expressions "general meeting" and "special meeting" and "meeting" mean respectively general assembly and special assembly of the proprietors of the Company; the expression "the undertaking" in the provisions incorporated with this Act of the Companies Clauses Consolidation Act 1845, and of the Companies Clauses Act 1863, and in the Companies Clauses Act 1869, means and includes the whole undertaking of the Company as existing at the time of the passing of this Act: and for the purposes of this Act the expression "superior courts," or "courts of competent jurisdiction," or any other like expression in this Act, or any Act wholly or 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.

Power to raise additional capital.

4. The Company may, subject to the provisions of Part II. of the Companies Clauses Act 1863, raise any additional capital not exceeding in nominal amount ten thousand pounds by the issue, at their option, of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by any one or more of these modes respectively; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

New shares or stock to be subject to same incidents as other shares or stock.

5. Except as is by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock and the holders thereof respectively shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company;

and the capital in new shares or stock so created shall form part of the capital of the Company. A.D. 1881.

Dividends on new shares or stock.

6. Every person who becomes entitled to new shares or stock in the Company under this Act shall, in respect of the same, be a holder of shares or stock in the Company, and shall be entitled to a dividend either preferential or ordinary as the case may be, along with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock as the case may be.

Right of voting in respect of new shares or stock.

7. Each holder of new shares or stock in the capital by this Act authorised to be raised shall be entitled to one vote in respect of each one hundred pounds of the capital so authorised to be raised, which shall be held by him, and in respect of which he shall have paid up the whole amount or the amount of any calls at the time made in respect thereof; provided always that except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any such new shares or stock to which a preferential dividend shall be assigned.

Receipt clause in case of persons not sui juris.

8. If any money is payable to a shareholder, being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow on mortgage.

9. In lieu of raising the whole of the said additional capital of ten thousand pounds, or of raising any part thereof (as the case may be) by the issue of shares or stock, the Company may, from time to time, borrow on mortgage any sums not exceeding in the whole ten thousand pounds, or if any portion of the said additional capital of ten thousand pounds shall have been raised by the issue of shares or stock, then not exceeding the amount of the additional capital which shall not have been so raised.

Appointment of a receiver.

10. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest due on the 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-tenth part of the whole sum at the time borrowed on mortgage by the Company.

Priority of mortgages over other debts.

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

A.D. 1881.

Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of any of the Acts relating to the Company, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Acts relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages, nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purposes of their undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of moneys.

12. All moneys raised under this Act, whether by shares or stock, or borrowing, shall be applied for the purposes of the recited Acts and this Act only.

Any person may hold any number of shares or any amount of stock of the Company.

13. The several enactments of the herein-before recited Acts relating to the Company, by which the number of shares and decimal parts of shares in the navigation of which any person may become a proprietor is limited to a prescribed number, under pain of forfeiture of all shares exceeding such number, are hereby repealed; and it shall be lawful for any person to be a proprietor of any number of the shares and decimal parts of shares in the navigation of the Company heretofore issued by the Company, and of any number of shares to be created and issued under the authority of this Act, and of any amount of stock into which any of such shares whatsoever may be converted.

Any person may hold any number of proxies.

14. Notwithstanding anything in the recited Acts relating to the Company contained, any person may hereafter give or deliver, in any public meeting or assembly of the Company, proxies entitling such person to vote for any number of absent proprietors.

Amount of capital represented necessary to constitute general assembly of proprietors.

15. Notwithstanding anything in the recited Acts relating to the Company contained, it shall be lawful for the persons, whether principals or proxies, present at any general assembly of the proprietors of the Company, and being possessed in the aggregate of five thousand pounds of the capital of the Company, whether in shares or stock, to act as a general assembly of the proprietors, and to do all acts, matters, and things for carrying the said recited Acts relating to the Company and this Act into execution.

Repeal of 8 Geo. 3. c. 36. s. 54.

16. Section fifty-four of the principal Act is hereby repealed.

Repealing exemption from payment of tolls on

17. The provisions of section fifty-one of the principal Act are, except as herein-after mentioned, hereby repealed in so far as they enact that paving-stones, gravel, sand, and all other materials for making and repairing roads, shall not be charged with or liable to

pay any of the rates, duties, or tolls authorised to be taken by the principal Act for being carried upon the cut or canal, trenches, sluices, or passages by that Act authorised or any part thereof, but shall be free and exempted from the same; and also that such person or persons who shall own, or be concerned or employed in carrying, paving-stones, gravel, sand, or other materials for the repair of roads shall have free liberty to make use of the towing-paths, wharfs, or quays belonging to the Company of Proprietors of the Coventry Canal Navigation, their successors and assigns: Provided nevertheless that such repeal of the said provisions shall not extend to paving-stones, gravel, sand, and other materials for making and repairing any roads in the vicinity of the Coventry Canal Navigation, and which are conveyed thereon only from some wharf on the said navigation to some other wharf on the same, and are not conveyed from or to or upon the said navigation to or from any other canal or navigation or any railway or tramway, nor shall such repeal of the said provisions extend to paving-stones, gravel, sand, and other materials for making and repairing any roads within the city of Coventry, or the parishes of Saint Michael and the Holy Trinity, in the county of Warwick, which do not pass through any lock authorised to be made by the principal Act, but at such times when the water shall flow over such lock.

Paving-stones and other road materials.

18. From and after the commencement of this Act the maximum tolls, rates, and dues (exclusive of wharfage) which it shall be lawful for the Company to ask, demand, take, and recover for goods, minerals, and other things navigated, carried, or conveyed upon or through the cut and canal by the principal Act authorised or any side branch or branches thereof (except such branch or branches as have been or shall be made by the owner or owners of any mines or minerals over his or their own lands on which no tolls are recoverable by the Company) shall be those specified in the Schedule to this Act annexed.

Maximum tolls to be hereafter charged on Coventry Canal.

19. Nothing in this Act contained shall be held to affect the provision contained in an agreement dated the twenty-ninth day of October, one thousand seven hundred and eighty-three, made between the Company of Proprietors of the Navigation from the Trent to the Mersey of the first part, the Company of Proprietors of the Coventry Canal Navigation of the second part, and the Company of Proprietors of the Oxford Canal Navigation of the third part, and confirmed by the Act (local) 25 George III. chapter 99, that "the tonnage to be taken for all coals navigated from Birmingham throughout the intended canal to Fazeley, and upon all or any part or parts of the Coventry and Oxford Canals, shall not exceed one penny per ton per mile."

Reserving provision as to toll on coal, of agreement of 1783.

A.D. 1881.

Canal to be subject to provisions of general Acts.

20. Nothing herein contained shall be deemed or construed to exempt the Coventry Canal Navigation 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 tolls authorised to be taken by this Act or by any other Act, relating to the said navigation, as amended by this Act.

Expenses of Act.

21. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing this Act, or otherwise in relation thereto, shall be paid by the Company.

SCHEDULE.

Maximum Tolls.

For all lime and limestone passing on any part of the canal, one halfpenny per ton per mile.

For all ale and porter, anvils, axes, bacon, blank trays and waiters, bones, bricks, brimstone, butter, cakes or sheets-brass, copper, and spelter, canvas, cement, chains, cheese, chemical residuum of all kinds, cider, clay, coal, coffee, coke, colours, cordage, cullet, currants, currycombs, cutlery, earthenware, fenders, files, fire-irons, flannels, flints, flour, foreign fruits, frying-pans, gas tubing, glass goods, grain, grates, gun barrels, hammers, herrings red and white, hides, hinges, hoes, hoofs, iron, iron spoons, ivory, kettles, lead, linens Irish, manufactured goods, cotton, silk, and wool, brass, copper, japanned, tutannia, tin, and zinc, manures, matchets, molasses, nails, oil, palm oil, pans, paper, pearl shell, pitch, pots, quarries, rags, raisins, resin, rice, rivets, sad-irons, salt, saltpetre, sand, scales, screws, scythes, seeds, shovels, slates, soap, spades, spirits, building stone, paving stone, gravel, and materials for making and repairing roads, stoves, sugar, sweepings, swords, tallow, tar, tiles, timber, tips, tobacco, traces, turpentine, umbrella furniture, vices, vinegar, weighing machines, weights, and wine passing on any part of the canal;

For a distance of two miles or less than two miles, one penny halfpenny per ton per mile.

For any greater distance than two miles, one penny halfpenny per ton per mile for the first two miles, and one penny per ton for every mile beyond two miles.

For all other commodities passing on any part of the canal, one penny halfpenny per ton per mile.

For all dung, soil, marl, and all sorts of manure (except lime or limestone) passing on any part of the canal, and not passing a lock except when the water runs over the weir - - - - - - free.

For all paving-stones, gravel, and materials for making and repairing roads passing on any part of the canal, and not passing a lock except when the water runs over the weir, one halfpenny per ton per mile.

Any fraction of a quarter of a mile to be deemed a quarter of a mile.

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