CHAPTER xxviii.

An Act to make further provision as to the rates tolls dues and charges leviable by the Leeds and Liverpool Canal Company to empower the Company to purchase their debentures and debenture stock and for other purposes. A.D. 1928.

[2nd July 1928.]

WHEREAS the Leeds and Liverpool Canal Company (hereinafter referred to as "the Company") were by the Canal Rates Tolls and Charges (Leeds and Liverpool Canal) Order 1893 confirmed by the Canal Rates Tolls and Charges (Leeds and Liverpool Canal) Order Confirmation Act 1893 empowered to charge rates tolls dues and charges not exceeding those specified in the schedule to the said Order:

And whereas by directions made by the Minister of Transport under section 3 of the Ministry of Transport Act 1919 and dated the first day of September nineteen hundred and twenty the Company were empowered to charge temporarily in respect of their undertaking the rates tolls dues and charges specified in the schedule to the said directions:

And whereas by the Canal (Continuance of Charges) Acts 1922 and 1924 the Expiring Laws Act 1925 the Expiring Laws Continuance Act 1926 and the Expiring Laws Continuance Act 1927 the rates tolls dues and charges specified in the schedule to the said directions have been from time to time continued in force and will

A.D. 1928. expire on the thirty-first day of December nineteen hundred and twenty-eight unless further continued by Parliament:

And whereas in order to enable the Company after the said thirty-first day of December nineteen hundred and twenty-eight to charge adequate rates tolls dues and charges in respect of their undertaking it is expedient that provision be made as in this Act contained with reference to the rates tolls dues and charges to be leviable by the Company after that date:

And whereas the authorised capital of the Company is £1,500,000 and consists of £1,225,000 ordinary stock created by the Leeds and Liverpool Canal Act 1891 as fully paid up and £275,000 additional capital which the Company were empowered by the said Act of 1891 to raise by the creation and issue of new shares or stock and in pursuance of that power the Company have created £122,500 3½ per cent. preference stock of which £113,421 stock has been issued and is fully paid up:

And whereas by the said Act of 1891 the Company were authorised to borrow on mortgage or by the creation and issue of debenture stock any sum or sums not exceeding in the whole in nominal amount (*a*) in respect of the said £1,225,000 ordinary stock one-third part of the nominal amount of such ordinary stock and (*b*) in respect of the said £275,000 additional capital the amount of £91,500 and in pursuance of that power the Company have created and issued £378,910 3½ per cent. debenture stock:

And whereas in the year 1921 the Company discontinued acting as carriers on their canal and in consequence thereof many warehouses buildings and other properties formerly used by the Company for the purposes of their business as carriers were no longer required by them and such warehouses buildings and properties and other surplus lands of the Company have from time to time been sold by the Company and the proceeds thereof invested:

And whereas the proceeds of such sales and other funds of the Company as invested up to the first day of September nineteen hundred and twenty-seven exceed £250,000 and it is expedient that the Company be authorised to use and apply those investments

and any other moneys representing the proceeds of sales of any such warehouses buildings properties and surplus lands as aforesaid (whether already sold or hereafter to be sold) for the purpose of the purchase from time to time by agreement of any existing debentures or debenture stock of the Company as by this Act provided :

And whereas by the said Act of 1891 the provisions of the Companies Clauses Consolidation Act 1845 and the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 were (except where expressly varied by the said Act of 1891) applied to the Company in substitution for the provisions of all former Acts relating to the Company in respect of any matters to which the first mentioned provisions relate and provisions were enacted with reference to the meetings of the Company and the administration of their affairs :

And whereas it is expedient to amend and vary the existing provisions relating to the ordinary meetings of the Company and the administration of their affairs :

And whereas it is expedient to confer further powers on the Company as by this Act provided and that the other provisions of this Act be enacted :

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 King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited as the Leeds and Liverpool Canal Act 1928.

Incorporation of Companies Clauses Acts.

2.—(1) The Companies Clauses Consolidation Act 1845 (except the provisions thereof with respect to the conversion of borrowed money into capital) and the Companies Clauses Act 1863 as amended by subsequent Acts are (so far as applicable to the purposes of this Act and not varied by or inconsistent with the provisions of this Act or of the Act of 1891 as amended by this Act) incorporated with and form part of this Act.

(2) The provisions of the Companies Clauses Act 1863 as incorporated with the Act of 1891 shall notwith-

A.D. 1928. standing anything in that Act be deemed to be incorporated as amended by any subsequent Act and the expression "the Companies Clauses Acts" in the said Act of 1891 shall mean the Companies Clauses Acts 1845 to 1889.

Interpretation.

3. In this Act words and expressions to which meanings are assigned by the Companies Clauses Consolidation Act 1845 have the same respective meanings unless there be something in the subject or context repugnant to such construction And unless the context otherwise requires—

"the Company" means the Leeds and Liverpool Canal Company;

"the Act of 1891" means the Leeds and Liverpool Canal Act 1891;

"the Charges Order" means the Canal Rates Tolls and Charges (Leeds and Liverpool Canal) Order 1893;

"authorised rates" means the rates tolls dues and charges which the Company are for the time being authorised to levy in pursuance of this Act;

"authorised rate" means any rate toll due or charge which the Company are so authorised to levy;

"the Minister" means the Minister of Transport;

"the directions of the Minister" means the directions of the Minister made under the Ministry of Transport Act 1919 with respect to the Leeds and Liverpool Canal undertaking and dated the first day of September nineteen hundred and twenty;

"the canal" means all canals and navigations belonging to the Company or for the use of which the Company are entitled to charge tolls.

Rates tolls dues and charges.

4. From the thirty-first day of December nineteen hundred and twenty-eight until the thirty-first day of December nineteen hundred and twenty-nine and thereafter unless and until the rates tolls dues and charges by this section authorised are revised by an order of the Minister made under the next succeeding section of this Act the following provisions shall have effect with respect

to the maximum rates tolls dues and charges leviable by the Company in respect of merchandise traffic (namely) :—

(*a*) the maximum rates and terminals specified in Part I of Table A in the schedule to the Charges Order and the charges specified in section 24 of the Charges Order shall be increased by an amount equal to sixty per centum of the respective amounts thereof authorised by the Charges Order; and

(*b*) the maximum tolls and wharfage charges specified in Part II of Table A in the said schedule and the minimum tolls and empty boat charges specified in section 12 of the schedule to the Charges Order shall continue to be those specified in the directions of the Minister;

and the Charges Order shall be read and have effect accordingly.

Revision of rates tolls &c.

5.—(1) If at any time after the thirty-first day of December nineteen hundred and twenty-nine it is represented by application in writing to the Minister—

(*a*) by any chamber of commerce or shipping or any representative body of traders or any person who is in the opinion of the Minister a proper person for the purpose; or

(*b*) by the Company;

that under the circumstances then existing the authorised rates or any of them should be revised the Minister may (if he thinks fit) subject to the provisions of this section make an order revising the authorised rates referred to in the application or any of them and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until it expires or is revoked or modified by a further order of the Minister made in pursuance of this section Provided that before making an order under this section the Minister shall cause an inquiry to be held with reference thereto in pursuance of the Board of Trade Arbitrations &c. Act 1874 as applied by this section.

(2) Where upon an application for revision of authorised rates or an authorised rate an order has been made or the Minister has decided not to make an order

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no further application for a revision of the rates or rate to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(3) The provisions of Part I of the Board of Trade Arbitrations &c. Act 1874 shall apply for the purposes of this section as if—

(*a*) the Minister were referred to therein in lieu of the Board of Trade ;

(*b*) the person or persons duly authorised to hold any inquiry thereunder were the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or if the said advisory committee ceases to exist some persons with similar qualifications to be appointed for the purpose by an order of the Minister under section 2 of the said Act of 1874; and

(*c*) in section 4 of the said Act of 1874 the words "under the seal of the Minister of Transport" were substituted for the words "by writing "under the hand of the President or of one of "the Secretaries of the Board."

(4) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require and the Minister and the body or persons holding an inquiry for the purposes of this section may call for such documents and accounts as they may consider relevant and may hear such witnesses as they shall think fit and shall have power to take evidence on oath and for that purpose may administer oaths.

Saving of rights privileges &c.

6. Nothing in section 4 (Rates tolls dues and charges) of this Act or in any order made by the Minister in pursuance of section 5 (Revision of rates tolls &c.) of this Act shall abridge prejudice or affect any exemption power privilege or liability which by any Act relating to the Company or the canal has been conferred upon or is

exerciseable by or is imposed upon or any reservation therein contained in favour of any person whose land was heretofore cut through by or taken for or on account of making the canal or in relation to any lands adjoining the canal or to any manor township village hamlet or place through which the canal passes or to any road.

Power to provide boats tugs &c.

7. The Company may from time to time build purchase take on lease contract for or otherwise provide and maintain and repair boats barges tugs and other vessels for the use of bye-traders or any other persons carrying or conveying merchandise traffic or trading on the canal or on any canal connected therewith or otherwise using the canal and may from time to time sell lease let for hire or otherwise dispose of any such vessels on such terms and conditions as the Company may think fit to any such bye-traders or other persons aforesaid.

Power to purchase debentures and debenture stock.

8.—(1) The Company may at any time purchase by agreement any debentures or debenture stock of the Company and for that purpose may apply any moneys for the time being in their hands which they are entitled to apply to capital purposes including the proceeds of any sale (whether heretofore or hereafter to be made by the Company) of any surplus lands warehouses buildings or other properties of the Company and any investments from time to time representing any such proceeds.

(2) Any debentures or debenture stock purchased under the provisions of this section may at the option of the directors be retained by the Company and registered in the name of the Company or be at any time cancelled and extinguished:

Provided that notwithstanding anything in the Act of 1891 or in this Act or in any enactment incorporated with the Act of 1891 or this Act any debentures or debenture stock so retained by and registered in the name of the Company shall not whilst so retained and registered have priority as respects principal or interest against the Company and the property from time to time of the Company liable thereto over any other claims on account of any debts incurred or engagements entered into by the Company.

(3) If any debentures or debenture stock so purchased are retained by and registered in the name of the

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Company the Company may from time to time sell or otherwise dispose of such debentures or debenture stock at such price and in such manner as the directors may think best in the interests of the Company.

(4) If any debentures or debenture stock so purchased are cancelled and extinguished the amount thereof shall be deemed to be money borrowed and paid off by the Company within the meaning of section 39 of the Companies Clauses Consolidation Act 1845 and the provisions of that section as to re-borrowing by the Company shall apply accordingly.

Redeemable securities.

9.—(1) The Company may issue as redeemable preference shares or stock any preference shares or stock or as redeemable debenture stock any debenture stock which the Company are by the Act of 1891 authorised to create and issue Provided that the resolution authorising the creation or issue of such redeemable preference shares or stock or debenture stock (hereinafter in this section referred to as "redeemable securities") shall specify the terms and conditions on which such redeemable securities shall be redeemed.

(2) If it is so provided in the resolution under which redeemable securities are created or issued the Company may—

(*a*) call in and pay off the redeemable securities or any part thereof at any time before the fixed date of redemption; and

(*b*) redeem the redeemable securities or any part thereof either by paying off the securities or by issuing to any holder of the redeemable securities (subject to his consent) other securities in substitution therefor.

(3) For the purpose of providing money for paying off the redeemable securities or of providing substituted securities the Company may create and issue new securities (either redeemable or irredeemable) or re-issue redeemable securities originally created and issued under this section Provided that the creation and issue for that purpose of any particular class of capital does not make the total nominal amount of such capital exceed the amount of that class of capital which the Company are for the time being authorised to issue except during

the necessary interval between the creation and issue of the new capital and the redemption of the old capital.

(4) The Company shall not redeem out of revenue any redeemable securities issued under the powers of this section except to the extent of any discount allowed on the issue or any premium payable on the redemption of any such securities.

Company may incur temporary loans.

10.—(1) The Company may for the purposes of or in connection with their undertaking borrow or raise moneys on temporary loans from bankers by means of overdrafts or otherwise Provided that the aggregate amount outstanding at any one time of the moneys so borrowed or raised shall not exceed fifty thousand pounds.

(2) The power conferred by this section shall be in addition to any power for the time being of the Company to borrow on debenture or mortgage of their undertaking or to raise moneys by the issue of debenture stock.

Ordinary meetings.

11. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the ordinary meetings of the Company shall (unless the Company by a resolution of a general meeting otherwise determine) be held once only in each year in the month of March or April or in such other month as the directors may from time to time prescribe and at such place as the directors may from time to time determine.

Interim dividends and annual accounts.

12. If and so long as the ordinary meetings of the Company shall be held once only in each year the following provisions shall have effect:—

(*a*) It shall be lawful for the directors to declare and pay in any year an interim half-yearly dividend on the ordinary and preference capital of the Company out of the profits of the Company without the sanction or direction of a general meeting:

(*b*) The Company and the directors shall not be required to make up a half-yearly balance sheet and accounts and the balance sheet and accounts made up by them in accordance with section 116 of the Companies Clauses Consolidation Act 1845 shall relate to the transactions of the Company in the course of the preceding year.

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As to directors.

13.—(1) As from the passing of this Act the number of the directors shall be eight but the Company may from time to time vary the number between a minimum of six and a maximum of eight.

(2) The quorum of a meeting of the directors shall be such number (not being less than three) as the directors may from time to time determine.

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

(4) Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director of the Company by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested in any contract with the Company nor shall any director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit or becoming interested in any such contract Provided that in the case of his being or becoming interested in any contract with the Company whether such interest shall arise before or after his appointment as a director the nature of his interest in the contract shall be disclosed by him at the meeting of the directors at which the contract is determined on if his interest then exists or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment and that no director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

(5) The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of directors of the Company holding office shall be less than the minimum number prescribed by

subsection (1) of this section the directors shall not except for the purpose of filling vacancies and allotting shares to any proposed director or directors act so long as the number is below such minimum.

Auditors.

14.—(1) The prescribed number of auditors of the Company shall be one unless the number be increased to two by an order of a general meeting and such auditor or auditors shall be a member or members of the Institute of Chartered Accountants or of the Society of Incorporated Accountants and Auditors or an accountant or accountants approved by the Minister.

(2) It shall not be necessary for any auditor of the Company to hold any shares or stock in the capital of the Company.

As to remuneration of secretary and auditors.

15. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary and auditors.

As to appointment of proxies.

16. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any holder of shares or stock in the capital of the Company if duly authorised in writing may appoint a proxy to vote for and on behalf of the holder and for that purpose may execute on behalf of the holder the necessary form of proxy Provided that the instrument appointing the attorney shall be transmitted to the secretary at the same time as the instrument appointing the proxy.

Joint holders.

17. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares or stock in the capital of the Company any one of those persons may vote at any meeting either personally or by proxy in respect of the shares or stock as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof Several executors or administrators of a deceased member in whose name any shares or stock stands shall for the purposes of this section be deemed joint holders thereof.

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As to shareholders' register.

18. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be necessary after the passing of this Act to authenticate the register of the shareholders of the Company by affixing the common seal of the Company to such register.

Substitution of card index for shareholders' address book.

19. Notwithstanding anything in section 10 of the Companies Clauses Consolidation Act 1845 the Company may substitute for the shareholders' address book provided under that section a card index containing the names and addresses of the several shareholders and stockholders of the Company and that section in its application to the Company shall be read and have effect accordingly.

Power to apply existing funds.

20. The Company may from time to time apply towards any of the purposes of this Act to which capital is properly applicable any money which they have raised or may hereafter raise under the Act of 1891 and which may not be required for the purposes of that Act and any other funds or moneys belonging to them.

Repeal.

21. The following sections of the Act of 1891 are hereby repealed :—

Section 9 (Future ordinary meetings);
Section 11 (Number of directors);
Section 13 (Quorum of directors).

Accounts to be sent to Minister.

22. The Company shall in every year within three months after the close of their financial year or such later period as the Minister may allow send to the Minister a copy of the annual accounts of their canal undertaking.

Costs of Act.

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

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