CHAPTER xxxii.

An Act to renew the powers of the Company of Proprietors of the Rochdale Canal to borrow money to amend the Acts relating to that Company and for other purposes. A.D. 1894.

[18th June 1894.]

WHEREAS the Company of Proprietors of the Rochdale Canal (herein-after called "the Company") were incorporated by the Act first mentioned in the schedule hereto (in this Act referred to as "the Act of 1794") and the provisions of such Act have been from time to time subsequently amended extended and explained by the several other Acts mentioned in such schedule: 34 Geo. III. c. lxxviii.

And whereas the present capital of the Company is four hundred and eighty-one thousand three hundred and fifty-five pounds divided into five thousand six hundred and sixty-three shares of eighty-five pounds each all of which have been fully paid up:

And whereas the Company were by the Act of 1794 authorised to borrow for the purposes of their undertaking the sum of one hundred thousand pounds:

And whereas the Company have from time to time borrowed moneys under the powers of such Act but all moneys so borrowed have been repaid except the sum of nine thousand pounds which still remains owing upon mortgages granted by the Company under the Act of 1794:

And whereas doubts exist whether the Company have power now to borrow or re-borrow all or any part of the moneys authorised to be borrowed by them under the Act of 1794 and not now owing by the Company and it is expedient that powers should be given to the Company to borrow money to the extent authorised by the Act of 1794:

And whereas in the year 1845 the Company adopted the powers of the Act 8 and 9 Vict. cap. 42 intituled "An Act to enable canal companies to become carriers of goods upon their canals" (herein-after called "the Carriers Act of 1845") and under the powers of that 8 & 9 Vict. c. 42.

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10 & 11 Vict. c. 94.

Act and the Act 10 and 11 Vict. cap. 94 intituled "An Act to amend an Act to enable canal companies to become carriers upon their canals" (herein-after called "the Carriers Act of 1847") and the Acts incorporated therewith they have created and issued permanent debenture stock to the amount of forty-eight thousand pounds carrying interest at three pounds ten shillings per cent. per annum and secured on their undertaking:

And whereas it is expedient that the other provisions in this Act contained should be made with respect to the regulation and management and capital of the Company:

And whereas claims have been made upon the Company under the provisions of the Act of 1794 by divers owners or workers of mines or minerals under or adjacent to their canal and doubts have been raised as to the power of the Company to agree with such persons for the purchase of such mines or minerals or with respect to the working thereof and it is expedient that powers should be conferred on the Company for that purpose:

And whereas the Company have at various times purchased or otherwise acquired either in the name of the Company or in the name or names of other persons on their behalf lands minerals and hereditaments or interests therein in connexion with the general purposes and with the carrying business of their undertaking and doubts exist as to the power of the Company to hold the same having regard to the provisions of the Act of 1794 limiting the width of the canal and the other powers of the Company and it is expedient that the same should be sanctioned and confirmed:

And whereas it is expedient that the Company should be empowered to acquire further lands and property and also to sell and dispose of lands and property not required for the purposes of their undertaking:

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):—

Short title.

1. This Act may be cited for all purposes as the Rochdale Canal Act 1894 and the several Acts mentioned in the schedule hereto and this Act together may be cited for all purposes as the Rochdale Canal Acts 1794 to 1894 and each of the Acts mentioned in such schedule may be cited for all purposes as the Roch daleCanal Act of the year in which the same was passed.

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Incorporation of general Acts.

2. The following Acts or parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say) The provisions of the Companies Clauses Consolidation Act 1845 with respect to the distribution of the capital of the Company into shares the transfer or transmission of shares the borrowing of money by the Company on mortgage or bond the consolidation of the shares into stock the giving of notices and the provision to be made for affording access to the special Act by all parties interested and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869.

Interpretation.

3. In this Act unless inconsistent with the context—

Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act or which have therein special meanings have (unless varied by this Act) the same respective meanings;

The expression "the Company" means the Company of Proprietors of the Rochdale Canal;

The expression "mine owner" includes any owner lessee or occupier as the case may be of mines and minerals:

And for the purposes of this Act in Acts incorporated wholly or in part with this Act—

The expression "the special Act" means this Act;

The expression "the Company" means the Company hereinbefore defined;

The expression "the undertaking" means the undertaking of the Company for the time being;

The expression "directors" means the members of the committee of management of the Company;

The expressions "general meeting" and "meeting" respectively mean a general or special assembly of the proprietors of the Company:

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in any such Act or this Act shall 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.

Repealing unexercised borrowing powers.

4. All unexercised powers of the Company under the Act of 1794 for raising money by borrowing are hereby repealed.

Renewing power of Company to borrow.

5. The Company may at any time and from time to time after the passing of this Act borrow on mortgage of the undertaking in accordance with the provisions of this Act any sum or sums of money not exceeding in the whole the sum of one hundred thousand

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pounds being the amount authorised by the Act of 1794 to be borrowed by them inclusive of the sum of nine thousand pounds borrowed by them under the powers of that Act and now owing.

Repealing provisions of former Acts with respect to appointment of receiver.

6. Every provision in any Act relating to the Company with respect to the appointment of a receiver for enforcing payment by the Company of arrears of interest due on their mortgages shall be and is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision.

For appointment of receiver.

7. The mortgagees of the Company may enforce payment of arrears of interest or principal or interest and principal 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 ten thousand pounds in the whole The provisions of this section shall apply to any existing mortgages of the Company as well as to mortgages granted under this Act.

Debenture stock.

8. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under this Act or the Carriers Act of 1847 or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock issued after the passing of this Act.

Reserving priority of existing mortgages.

9. All mortgages granted by the Company in pursuance of the powers of the Act of 1794 and subsisting at the passing of this Act shall during the continuance of such mortgages and subject to the provisions of the Act under which such mortgages were respectively granted continue to have priority over all debenture stock created and issued by the Company under the powers of the Carriers Act of 1847 and shall have priority over all debenture stock or mortgages created and issued or granted by the Company under the powers of this Act.

Priority of debenture stock issued under Carriers Act of 1847.

10. The debenture stock created and issued by the Company under the powers of the Carriers Act of 1847 before the passing of this Act and the interest thereon shall have priority over all debenture stock and mortgages created and issued or granted by the Company under the powers of that Act or of this Act after the passing of this Act.

Priority of mortgages over other debts.

11. All money to be raised by the Company on mortgage or debenture stock under the provisions of this Act or of the Carriers Act of 1847 shall have priority against the Company and the property from time to time of the Company liable thereto 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 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 Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

Reserving power to borrow under Carriers Act of 1847.

12. Nothing in this Act shall defeat prejudice or affect the powers of the Company to borrow under the Carriers Act of 1847 which powers shall subject to the provisions of this Act continue in force as if this Act had not been passed.

Application of moneys.

13. All moneys raised under this Act whether on mortgage or by the issue of debenture stock shall be applied only for the general purposes of the Company to which capital is properly applicable.

Provisions as to directors.

14. Notwithstanding anything in the Act of 1794 the Company may by resolution of the proprietors of the Company at any general assembly from time to time—

(1) Alter increase or reduce the number of persons who shall be or constitute the committee to manage the affairs of the Company provided that the number of members of such committee shall not at any time exceed twenty-one or be less than nine;

(2) Fix and alter the order of rotation in which such members shall retire from office but so that such order shall provide for every member retiring from office not later than three years after his election subject to the provision herein-after contained for his continuing in office until his successor is appointed;

(3) Fix and alter the number of members which shall constitute a quorum at meetings of such committee provided that such number shall not be less than three;

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(4) Alter increase or reduce the number of shares which shall be held by a proprietor to qualify him to become or be a member of such committee provided that such number of shares shall not be less than two shares :

Any person appointed a member of the committee shall (subject to the power of the Company to alter the number of the members of the committee) continue to hold office until his successor is appointed and any such person may remain in office for such period as may be necessary to give effect to any order of rotation of the members of the committee for the time being in force At future general assemblies of the Company only such number of persons to serve on the committee shall be chosen as shall be required subject as aforesaid to fill the places of those retiring from office or any other vacancy for the time being on the committee and the provisions of the Act of 1794 are hereby amended in accordance with this section.

Casual vacancies on committee.

15. If any member of the said committee shall die resign or become disqualified or incompetent to act on the committee or cease to be a member of the committee by any other cause than that of retiring from office by rotation as aforesaid the remaining members of the committee if they think fit may elect in his place some other proprietor of the Company duly qualified to be a member of such committee and the person so elected shall continue in office so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Proxies.

16. From and after the passing of this Act the proviso to section 77 of the Act of 1794 limiting the number of absent proprietors of the Company for whom a person may act as proxy at assemblies of the Company and prescribing the form of appointment of proxies shall be repealed and at all general and special assemblies of the Company held after the passing of this Act any proprietor of the Company may act as proxy for any number of absent proprietors and the appointment of any such proxy may be in the form prescribed in Schedule F. of the Companies Clauses Consolidation Act 1845 or in a form to the like effect.

Date of general assemblies.

17. From and after the passing of this Act the provisions of section 82 of the Act of 1794 prescribing that the general assemblies of the Company shall be held on the first Thursday in the month of May in every year at the hour of eleven in the forenoon at such place or places as the next preceding general assembly should appoint shall be repealed and all future general assemblies of the Company shall be held at such hour on any day in the month of February or in the month of March in each year and at such place as shall be from

time to time appointed by the committee of management of the Company Ten days notice at least of every general assembly shall be given by the committee by advertisement in some newspaper published in each of the counties of Lancaster and York specifying the place day and hour of the meeting of such assembly.

Certain provisions of the Companies Clauses Consolidation Act to apply to Company.

18. From and after the passing of this Act the provisions incorporated with this Act of the Companies Clauses Consolidation Act 1845 with respect to the distribution of the capital of the Company into shares the transfer or transmission of shares and the consolidation of the shares into stock shall extend and apply to the present shares in the capital of the Company and the provisions of the Act of 1794 and of the Rochdale Canal Act of 1806 relating to any matters provided for by such incorporated provisions shall be repealed.

Remuneration of directors.

19. The Company may at any general assembly authorise the appropriation out of the profits of their undertaking of any annual sum or sums of money to be applied in the remuneration of the members of the committee of management of the Company and may from time to time at any such assembly increase or reduce such sum or sums and any sum or sums so appropriated shall be distributed among the members of the committee in such manner as the committee may from time to time determine.

Power to make agreements with mine owners.

20. The Company may make and enter into and carry into effect agreements or arrangements with any mine owner for the purchase by the Company of any mines or minerals which may be under or near any part of the canal or any reservoir work or lands of the Company and which may be thought necessary for the support or protection of such canal reservoir work or lands or any estate or interest in such mines or minerals or agreements or arrangements as to the terms on which any such mine owner may get or work all or any part of any such mines or minerals irrespective of damage to the said canal reservoir work or lands and for the Company indemnifying any such mine owner from liability for damage which may be caused to any such canal reservoir work or lands of the Company by reason of the working or getting of such mines or minerals or compensating any such mine owner for any damage which may be caused to him by or in consequence of any subsidence of or escape of water from the canal or works of the Company into his mine And the provisions of this section shall apply to a deed of arrangement entered into between William Marland and Robert Marland of the one part and the Company of the other part dated the twenty-eighth day of July one thousand eight

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hundred and ninety-three with reference to mines and minerals at or near Hollinwood as if such deed had been made after the passing of this Act.

Confirmation of previous purchases of lands &c.

21. The Company may hold and use for the purposes of their undertaking any lands minerals hereditaments or property purchased or acquired by the Company or by any person on behalf of or in trust for them previous to the passing of this Act and every such purchase or acquisition shall be deemed to have been within the powers of the Company and to have been from the making thereof good valid and effectual and where any such purchase or acquisition has been made in the name or names of any person or persons on behalf of the Company such person or persons shall be deemed to have been from the execution of the assurance to him or them seized or possessed of the premises assured to him or them in trust for the Company.

Power to buy lands by agreement.

22. The Company may in addition to any other lands hereditaments or property which they are authorised to hold or acquire purchase take on lease or otherwise acquire by agreement and hold and use for the purposes of their undertaking any lands hereditaments or property not exceeding in the whole ten acres and may from time to time sell and dispose of any lands hereditaments or property not required at the time for the purposes of their undertaking.

Provision as to nuisance.

23. Nothing in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land acquired or held under the powers of the two immediately preceding sections.

Repeal of section 19 of Act of 1794.

24. Section 19 of the Act of 1794 is hereby repealed.

Restriction on taking houses of labouring class.

25. The Company shall not under the powers of this Act purchase or acquire in any city borough or urban sanitary district or in any parish or part of a parish not being within an urban sanitary district 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.

For the purposes of this section the expression "labouring class" 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.

Canal not to be exempt from provisions of general Acts.

26. Nothing herein contained 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 rates and tolls authorised to be taken by any Act relating to the Company.

Costs of Act.

27. 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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The SCHEDULE referred to in the foregoing Act.

Reference to Act.	Date of Royal Assent.	Title.
34 Geo. III. cap. lxxviii.	4th April 1794 -	An Act for making and maintaining a navigable canal from the Calder Navigation at or near Sowerby Bridge Wharf in the parish of Halifax in the west riding of the county of York to join the canal of His Grace the Duke of Bridgewater in the parish of Manchester in the county palatine of Lancaster and also certain cuts from the said intended canal.
38 Geo. III. cap. xlix.	26th May 1798 -	An Act for vesting divers lands and hereditaments in the parish of Halifax in the county of York in trustees and their heirs upon certain trusts therein mentioned discharged from all claims of the Crown in respect of any forfeiture incurred under or by virtue of the statutes of mortmain or the laws relating to mortmain.
39 & 40 Geo. III. cap. 36.	30th May 1800 -	An Act for better enabling the Company of Proprietors of the Rochdale Canal to raise money for completing the said canal and to vary the line of the said canal and to alter explain and amend the Act passed in the thirty-fourth year of the reign of His present Majesty for making the said canal.
44 Geo. III. cap. 9. -	23rd March 1804 -	An Act for enabling the Company of Proprietors of the Rochdale Canal more effectually to provide for the discharge of their debts and to complete the whole of the works to be executed by them in pursuance of the several Acts passed for making and maintaining the said canal.
46 Geo. III. cap. 20.	21st April 1806 -	An Act for enabling the Company of Proprietors of the Rochdale Canal more effectually to provide for the discharge of their debts and to amend the several Acts passed for making and maintaining the said canal.

Reference to Act.	Date of Royal Assent.	Title.
47 Geo. III. Session 2, cap. 81.	8th August 1807	An Act to alter amend explain and enlarge the powers of the several Acts passed for making and maintaining the Rochdale Canal Navigation.

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