CHAPTER lxxi.

An Act to authorise the Company of Proprietors of the Thames and Severn Canal Navigation to raise more Money; and for other purposes. [3d July 1879.]

A.D. 1879.

WHEREAS by an Act passed in the twenty-third year of the reign of King George the Third (chapter thirty-eight), 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 the canal and collateral cut above described:

And whereas the powers of the said Act (in this Act called "the Act of 1783") were amended and enlarged by an Act passed in the thirty-first year of the reign of King George the Third (chapter sixty-seven), (in this Act called "the Act of 1791,") and by an Act passed in the thirty-sixth year of the reign of King George the Third (chapter thirty-four), (in this Act called "the Act of 1796,") and by an Act passed in the forty-ninth year of the reign of King George the Third (chapter one hundred and twelve), (in this Act called "the Act of 1809,") and by an Act passed in the fifty-third year of the reign of King George the Third (chapter one hundred and eighty-one), (in this Act called "the Act of 1813,") and the said Acts (including the Act of 1783) are collectively in this Act called "the Canal Acts":

And whereas the said canal and collateral cut have for many years been completed and in use:

And whereas the authorised capital of the Company is two hundred and forty-five thousand pounds in one hundred pounds shares, whereof one thousand one hundred and fifty shares, repre-

A.D. 1879.

senting a capital of one hundred and fifteen thousand pounds, are called "red shares," and are entitled to a preferential dividend at the rate of one pound ten shillings per centum whenever the profits for the year are insufficient to pay dividends at that rate on all the shares in the capital of the Company, and the remaining one thousand three hundred shares, representing a capital of one hundred and thirty thousand pounds, are called "black shares," and are entitled to dividends out of the profits of the undertaking which remain after deducting the amount required for the preferential dividends on the red shares whenever the total amount of profits for the year are insufficient to pay more than one pound ten shillings per centum upon the whole capital; and whenever such profits are more than sufficient to pay a dividend at the rate of one pound ten shillings per centum on both the red shares and the black shares, the profits are divisible at the same rate per centum amongst the proprietors of all the shares:

And whereas the Company have no mortgage debt other than and except a sum of one thousand five hundred pounds which they have secured by the creation and issue of certain mortgage debentures:

And whereas, owing to the establishment of railways, the traffic on the canal has greatly fallen off, and the receipts are so reduced as to be insufficient to maintain the navigation in efficient repair and to make such improvements as may enable it to compete with railways in the carriage of traffic, and an immediate expenditure of a large sum of money is required in order to construct repairs and improvements, and it is expedient that the Company should be authorised to raise money for those purposes and for the purposes of the Canal Acts as by this Act authorised:

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:

Short title.

1. This Act may be cited as the Thames and Severn Canal Act, 1879.

Incorporating certain provisions of 8 & 9 Vict. c. 16. 26 & 27 Vict. c. 118., and 32 & 33 Vict. c. 48.

2. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the several matters following; that is to say, the borrowing of money by the Company on mortgage or bond, the giving of notices, and the provision to be made for affording access to the special Act, and Part III. (relating to debenture stock) of

the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, are (except where expressly varied by this Act) incorporated with and form part of this Act. A.D. 1879.

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:

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 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 borrow on mortgage.

4. The Company may, subject to the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of money by the Company on mortgage or bond, but not so as to authorise the conversion of the borrowed money into capital, from time to time borrow on mortgage of their undertaking any sums not exceeding in the whole thirty thousand pounds, inclusive of the sum of one thousand five hundred pounds borrowed on mortgage debenture bonds; and they shall, out of any moneys borrowed under the powers of this Act, pay off such debenture bonds as they become due, and the amount so paid off shall not be re-borrowed.

Appointment of a receiver.

5. The mortgagees of the undertaking of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. 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 six hundred pounds in the whole.

Debenture stock.

6. The Company may create and issue debenture stock, subject to provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of mortgages over other debts.

7. All money to be raised by the Company on mortgage of their undertaking or by debenture stock under the provisions of this Act shall (except as herein-after mentioned) have priority against the

A.D. 1879.

Company, and the property from time to time of the Company (except as herein-after mentioned), 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 Company or their property in respect of any rentcharge on their lands, 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, and shall not affect surplus lands subject to any mortgage created under the powers of this Act or the rights of the mortgagees under such mortgages.

Application of moneys raised under Act.

8. All moneys raised under this Act by debenture stock or borrowing shall be applied for the purposes of the Canal Acts and this Act only, and such purposes shall include all necessary works for repairing and improving the said canal and collateral cut so as to bring the same respectively into good working order and condition.

Company not exempt from provisions of any present or future general Acts.

9. Nothing in this Act contained shall exempt the Company or the canal from the provisions of any general Act relating to canals or the revision of tolls and charges authorised to be taken on the canal, or the better and more impartial audit of the accounts of canal companies, now in force or which may hereafter pass during this or any future session of Parliament.

Expenses of Act.

10. 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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