ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

****

Cap. XXX.

An Act for granting further Powers to the Company of Proprietors of the *Birmingham* and *Liverpool* Junction Canal Navigation.

[13th *May* 1842.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for making a navigable Canal from the* Staffordshire 7 G. 4. c. 95.
and Worcestershire *Canal in the Parish of* Tettenhall *in the County of* Stafford *to the united Navigation of the* Ellesmere *and* Chester *Canals in the Parish of* Acton *in the County Palatine of* Chester:" And whereas another Act was passed in the Session held in the Seventh and Eighth Years of the Reign of His said Majesty, intituled *An Act to enable the Company of Proprietors of the* Birmingham *and* 7 & 8 G. 4.
Liverpool *Junction Canal Navigation to alter the Line of the said* c. 2.
Navigation, and to make certain Branches therefrom in the Counties of Stafford *and* Salop: And whereas another Act was passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to enlarge and amend the Powers and Pro-* 1 W. 4. c. 54.

visions of the several Acts relating to the Birmingham *and* Liverpool *Junction Canal, and to better supply the said Canal with Water:* And whereas another Act was passed in the Fourth Year of the Reign of His said late Majesty, intituled *An Act to enable the* Birmingham *and* Liverpool *Junction Canal Navigation Company to raise a further Sum of Money:* And whereas the Company of Proprietors of the *Birmingham* and *Liverpool* Junction Canal Navigation have, in execution of the Purposes of the recited Acts, made and completed the Canal and various Works connected therewith: And whereas it is expedient that the said Company should be authorized to act as Common Carriers, and to carry and convey Passengers and Goods, and to provide and maintain Barges and Boats, and also Haulage and Trackage, by means of Steam, Animal, or other Power: And whereas it is also expedient that some of the Powers and Provisions of the recited Acts should be amended and enlarged, and further Powers be granted to the Company; but the Purposes aforesaid cannot be effected without the Aid and 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, That all the Provisions, Matters, and Things contained in the said recited Acts (except such of them as are repealed, altered, or otherwise provided for,) shall, so far as the same are applicable, extend to this Act, and shall be in force in respect to the Objects and Purposes of this Act, as fully and effectually, to all Intents and Purposes whatsoever, as if the same Provisions, Matters, and Things were re-enacted in this Act with reference to the Objects and Purposes thereof.

4 & 5 W. 4. c. 21.

Extending Provisions of former Acts to this Act.

Company may become Carriers.

II. And be it enacted, That it shall be lawful for the Company to carry, as Common Carriers, for their own Profit, upon their own Canal, or any other Canal or River communicating with their own Canal, either directly or by means of any intermediate Canal or River, Passengers, Cattle, Animals, Goods, Wares, Merchandize, Articles, Matters, or Things, and for that Purpose to purchase, hire, or construct, and to use and employ, such Boats, Barges, Vessels, Rafts, Carts, Waggons, Carriages, Conveniences, Matters, and Things, and also to establish and furnish such Haulage and Trackage, by means of Steam, Animal, or other Power, as to them may seem proper, and the Rates to be payable to the Company shall be such as the Company may determine upon.

Company may use Horses, Boats, and Machinery for tracking and towing Vessels.

III. And be it enacted, That it shall be lawful for the Company to purchase, provide, and use Boats, and also Horses, Steam, or other Power, and Machinery, for hauling, tracking, and towing Boats and Vessels upon their own Canal, or any other Canal or River communicating with their own Canal, either directly or by means of any intermediate Canal or River, and to employ a sufficient Number of competent Persons for these Purposes, and to demand and receive for the Use of such Boats, or for such hauling, tracking, or towing, such reasonable Hire or Remuneration as shall be fixed by the Committee

mittee of Management, or as shall be agreed upon between some Person or Persons on their Behalf (authorized for that Purpose), and the Person desiring the Use of any such Boat, and the Masters or Owners or Persons having the Charge of any Boats or Vessels, and requiring such hauling, tracking, or towing.

All other Persons may carry Passengers on the Canal.

IV. And be it enacted, That it shall also be lawful for all other Companies and Persons to use the said Canal for the Conveyance of Passengers, and their Luggage and Parcels, subject to such Terms and Regulations as the Company shall from Time to Time determine, such Regulations being the same, as far as Circumstances will admit, in respect of all Passage Boats of a like Description, whether belonging to the Company or to any other Company or Person, and nothing in this Act or the said recited Acts contained shall authorize the said Company, by any Bye Law or Regulation, to restrict, further than may be necessary for the Safety of Passengers and the Regularity of the Trade, the free Navigation of the Canal as at present authorized to be used by any Person paying the Tonnage Rates and Dues in respect thereof.

Recovery of Rates.

V. And be it enacted, That the Company shall have all the same Rights and Remedies for recovering as well the Charges by the recited Acts as the Charges hereby authorized to be taken for the Carriage or Conveyance of Passengers and Goods, and for Hauling and Trackage, as are given to them by the recited Acts in reference to the Rates and Tolls thereby made payable, or the Company may, at their Option, sue for and recover such Charges, or any Part thereof, in any of the Superior Courts.

Equalization of Rates.

VI. And be it enacted, That all Rates, Tolls, and Duties, Fares for Passengers, and Charges for Boats, and for hauling, propelling, or tracking, by this Act authorized to be taken or agreed upon, shall at all Times be charged equally to all Persons and after the same Rate, whether *per* Mile or *per* Ton, or otherwise, upon the same Portion of the said Canal, or of any other Canal or River, under the like Circumstances, and no Reduction or Advance of or Exemption from the said Rates, Tolls, and Duties, Fares and Charges, shall be made, either directly or indirectly, in favour of or against any particular Company or Person; but without Prejudice always to different Rates, Tolls, and Duties, Fares or other Charges, being fixed and levied for or in respect of different Descriptions of Goods or Commodities carried or conveyed by the said Company, or for or in respect of the First, Second, or Third Class Cabins or Conveyances for Passengers; and without Prejudice to the said Company fixing and levying different Charges for Hauling and Trackage by them for different Descriptions of Vessels, and in respect of the different Rates of Speed at which such Hauling and Trackage shall be furnished; but such different Rates, Tolls, and Duties, Fares and Charges, shall be charged equally to all Persons and Parties under the like Circumstances, and not in favour of or against any particular Person or Party.

VII. And

Tables of Rates, &c. to be affixed at Places where payable.

VII. And be it enacted, That Tables of the Rates and Sums of Money from Time to Time actually payable to or demandable by the Company for hauling, propelling, and tracking, painted or printed in legible Characters, shall be affixed and continued at the Places where such Rates or Sums of Money shall be respectively payable, received, or taken, and shall be renewed as often as the Rates or Sums of Money shall be altered by the Company; and the Company shall and they are hereby required, when and as often as such Tables shall be removed, defaced, or obliterated, to replace, renew, or repair the same (as the Case may require) within Twenty-one Days then next following.

Penalty on Passengers practising Fraud on the Company.

VIII. And for preventing Frauds on the Company and other Carriers on the Canal, be it enacted, That if any Person travel in any Passage Boat of the Company, or of any other Company or Party using the Canal, without having previously paid his Fare, and with Intent to avoid Payment thereof; or if the Master or Owner or Person having Charge of any Boat fasten on such Boat to any other Boat drawn or propelled by the Steam, Animal, or other Power provided by the Company, or in any other Manner use the Trackage and Haulage or Boats of the Company, without the Consent of the Company; or if any Person, having paid his Fare for a certain Distance, knowingly and wilfully proceed in any Passage Boat of the Company, or of any other Company or Party using the Canal, beyond such Distance, and quit such Boat without previously paying the additional Fare for the additional Distance, and with Intent to avoid Payment thereof; or if any Person knowingly and wilfully refuse or neglect, on arriving at the Point to which he has paid his Fare, to quit the Passage Boat of the Company, or of any other Company or Party using the Canal; every such Person shall for every such Offence forfeit a Sum not exceeding Forty Shillings.

Provisions in force relating to Common Carriers to extend to the Company.

IX. And be it enacted, That nothing herein contained shall in any Case extend to charge or make liable the Company further or in any other Case than where, according to the Laws of this Realm for the Time being, Stage Coach Proprietors and Common Carriers would be liable, nor shall any thing herein contained extend in any degree to deprive the Company of any Protection or Privilege which either now or at any Time hereafter Common Carriers or Stage Coach Proprietors have or may have, but the Company shall from Time to Time and at all Times have and be entitled to the Benefit of every such Protection and Privilege.

Company empowered to contract with other Canal Companies.

X. And in order to facilitate the Carriage and Conveyance of Passengers, Goods, and Merchandize, and other Matters and Things, it is expedient that the Company should be empowered to enter into any Arrangements with any other Company, so as to avoid the Necessity of a Change of Boats and other Delays arising from a Diversity of Interest; be it enacted, That, notwithstanding any thing in this or the recited Acts contained, it shall be lawful for the Company from Time to Time to enter into any Contract or Agreement with any other Company (and which Contract or Agreement such

other

other Company is hereby authorized to enter into), either for the Division or Apportionment of Rates, Tolls, and Duties, or for the Passage over or along the Canal by the recited Acts authorized to be made, of any Boats drawn or propelled by Steam, Animal, or other Power, of or belonging to any other Company, or which shall pass over or along any other Line of Canal, or for the Passage over or along any other Line of Canal of any Boats drawn or propelled by Steam, Animal, or other Power, which shall belong to the Company, or which shall pass over or along their Line of Canal, upon the Payment of such Rates, Tolls, and Duties, and under such Conditions and Restrictions, as may be deemed advisable and be mutually agreed upon; and any such Contract may contain such Covenants, Clauses, Provisions, Conditions, and Agreements as the contracting Parties may respectively think advisable and mutually agree upon: Provided always, that no such Contract shall in any Manner alter, affect, increase, or diminish any of the Rates, Tolls, or Duties which the respective Companies, Parties to such Contracts, shall for the Time being be respectively authorized and entitled to have, demand, recover, or receive of or from any Person or any other Company, but that all other Persons and Companies shall, notwithstanding any such Contract, be entitled to the Use and Benefit of any of the Canals upon the same Terms and Conditions, and on Payment of the same Tolls, Rates, and Duties, as they would have been in case no such Contract had been entered into.

Contract not to affect Persons not Parties to it.

XI. And whereas the Commissioners nominated and appointed in and by an Act of Parliament made and passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend several Acts passed for authorizing the Issue of Exchequer Bills and the Advance of Money for carrying on Public Works and Fisheries, and Employment of the Poor; and to authorize a further Issue of Exchequer Bills for the Purposes of the said Acts*, and the several Acts therein recited, mentioned, and referred to, did, on or about the First Day of *November* One thousand eight hundred and thirty-one, advance and lend to the said Company of Proprietors of the *Birmingham* and *Liverpool* Junction Canal Navigation the Sum of One hundred and sixty thousand Pounds in Exchequer Bills, on the Security of an Indenture of Mortgage under the Common Seal of the said Company, bearing Date on or about the said First Day of *November* One thousand eight hundred and thirty-one, whereby, for the Considerations therein mentioned, the said Company of Proprietors assigned to *William Holden* Esquire, the then Secretary of the said Commissioners, but since deceased, all the said Canal, and all Works and Property belonging or which might thereafter belong thereto, and all Rates, Tolls, Rents, and Profits accruing or which might at any Time thereafter accrue, arise, be taken, collected, or received by the said Company of Proprietors from or out or on account of the said Canal and Works, in pursuance of the Acts mentioned in the said Indenture, or any other Act or Acts of Parliament then or thereafter relating to the said Company, subject to Redemption upon Payment by the said Company of the Sum of One hundred and sixty thousand Pounds, and Interest, by such

For Protection of the Securities given to the Exchequer Loan Commissioners. 1 & 2 W. 4. c. 24.

Instalments and at such Times as in the said Indenture is particularly mentioned and set forth: And whereas the said Commissioners did on or about the Nineteenth Day of *July* One thousand eight hundred and thirty-two advance to the said Company of Proprietors the further Sum of Twenty-four thousand six hundred Pounds in Exchequer Bills, on the Security of a further Indenture of Mortgage bearing Date the said Nineteenth Day of *July* One thousand eight hundred and thirty-two, whereby the said Canal and Premises were assigned to *John Strettell Brickwood* Esquire, the present Secretary of the said Commissioners, in the Manner and for the Purposes therein expressed: And whereas the whole of the said several Sums of One hundred and sixty thousand Pounds and Twenty-four thousand six hundred Pounds, making together the Sum of One hundred and eighty-four thousand six hundred Pounds, remains unpaid, with an Arrear of Interest on the First of the said Advances at Five Pounds *per Centum per Annum*, and a like Arrear on the Second of the said Advances; be it therefore enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, defeat, make void, or in any Manner incumber or affect the said several Indentures of Mortgage bearing Date respectively the First Day of *November* One thousand eight hundred and thirty-one and the Nineteenth Day of *July* One thousand eight hundred and thirty-two, or the Priority to which such Mortgages are respectively entitled, or any of the Powers, Privileges, and Remedies now vested in the said Commissioners for or in respect thereof, for enforcing the Payment of the several Sums secured thereby, or the Completion of the said Canal and all Works connected therewith, but such Powers, Privileges, and Remedies shall continue and remain in like Force in all respects as if this Act had not been passed, any thing herein contained to the contrary thereof notwithstanding.

For Protection of the Rights, &c. of the Trent and Mersey Navigation.

XII. Provided always, and be it enacted, That nothing in this Act contained shall take away, diminish, alter, prejudice, or affect any of the Rights, Privileges, Powers, or Authorities vested in the said Company of Proprietors of the Navigation from the *Trent* to the *Mersey*, or authorize or empower the said *Birmingham* and *Liverpool* Junction Canal Company to propel Boats or other Vessels on the said *Trent* and *Mersey* Navigation, or the Branches and Extensions thereof, by means of Steam Power or Machinery, or to do any Act by means whereof the full and free Use of the said *Trent* and *Mersey* Navigation, or the Branches and Extensions thereof, may be obstructed or impeded, or the Banks, Locks, or other Works of or belonging to the said Navigation, or the Branches or Extensions belonging thereto, may be damaged or injured, without the Consent of the said Company of Proprietors of the Navigation from the *Trent* to the *Mersey*, under their Common Seal, first had and obtained.

Provision for Payment of the Expences of this Act.

XIII. And be it enacted, That all the Costs, Charges, and Expences of obtaining and passing this Act, and of carrying the same into effect, shall be defrayed and paid by the Company out of the Monies received or to be received by them under the Authority of

the said recited Acts and of this Act, or any of them, in preference to any other Payments.

XIV. And be it enacted, That this Act shall be a Public Act, and judicially taken notice of as such. Public Act.

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