ANNO TERTIO

VICTORIÆ REGINÆ.

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Cap. i.

An Act to enable the *Chard* Canal Company to raise further Monies, and to amend the Act relating to the same Canal. [23d *March* 1840.]

WHEREAS an Act of Parliament was passed in the Fourth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making a navigable Canal* 4 W. 4. c. 53. *from the* Bridgewater *and* Taunton *Canal in the Parish of* Creech Saint Michael *in the County of* Somerset, *and terminating in the Parish of* Chard *in the same County, with a collateral Cut therein described*, and thereby certain Persons and their Successors were incorporated by the Name and Style of "The Company of Proprietors of the *Chard* Canal Navigation," with Power to make the said Canal and Cut and other Works connected therewith: And whereas by the said Act it was (among other things) enacted, that it should be lawful for the said Company to raise and contribute amongst themselves, in such Proportions as they should think proper, a competent Sum of Money for making and completing the said Canal and Works, not exceeding in the whole, in the first instance, the Sum of Fifty-seven thousand Pounds, but with Power afterwards to raise a further Sum or further Sums, but not exceeding in the whole the additional Sum of Twenty thousand Pounds, and that the Sums so proposed to be raised should be divided into Shares of Fifty Pounds

Pounds each; and further, that it should be lawful for the said Company from Time to Time, by an Order of any General Meeting of the said Company, to borrow and take up at Interest any Sum, not exceeding in the whole the Sum of Twenty thousand Pounds, on the Credit of the said Undertaking, by way of Mortgage, as therein particularly mentioned: And whereas under the said Act the said Company have made considerable Progress towards the Completion of the said Canal, but it has been found that the Monies expressly authorized to be raised by the said Act will not be sufficient to complete the said Canal and Works, and it is necessary that further Monies should be raised for the Purposes of the same Act; and it is expedient that the said Act should be in some respects amended; but the Objects 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 Powers, Authorities, Regulations, Clauses, Provisions, Matters, and Things contained in the said recited Act, (except such of them, or such Parts thereof respectively as are by this Act repealed, altered, or otherwise provided for,) shall extend to and operate in respect of this Act, and the Objects and Purposes of this Act, as fully and effectually, to all Intents and Purposes whatsoever, as if the same Powers, Authorities, Regulations, Clauses, Provisions, Matters, and Things were repeated and re-enacted in this Act, and made Part thereof.

Extending Provisions of recited Act to this Act.

Repeal of Power to raise 20,000*l.* by Shares.

II. And be it further enacted, That the said recited Power for the said Company to raise and contribute among themselves the Sum of Twenty thousand Pounds, in addition to the said Sum of Fifty-seven thousand Pounds, shall be and the same is hereby repealed.

Power to raise further Capital of 80,000*l.* by a Creation of new Shares.

III. And be it further enacted, That it shall be lawful for the said Company, under the Resolution of any General Meeting or Meetings, ordinary or special, of the said Company, forthwith, or at any Time or Times hereafter, to raise for the Purposes of the said recited Act and of this Act, in addition to the said Sum of Fifty-seven thousand Pounds by the said recited Act authorized to be raised in the first instance by Shares, and the said Sum of Twenty thousand Pounds thereby authorized to be raised on Mortgage, any Sum or Sums of Money not exceeding in the whole the Sum of Eighty thousand Pounds, by creating new Shares of Fifty Pounds each in the Capital of the said Company, and by disposing of the same Shares among themselves or new Subscribers or Proprietors, upon the Terms that the Persons who may be willing and agree to take such Shares shall pay such a Sum on or in respect of each new Share as the said Company may, at any General Meeting or Meetings, ordinary or special, fix upon, and upon such other Terms and subject to such Regulations as the said Company, at any Meeting or Meetings, ordinary or special, may think proper; and the said Company, before all the Shares shall be taken, shall have Power from Time to Time, at any Meeting or Meetings, ordinary or special, to vary and alter the Sum to be paid on or in respect of each new Share not then taken, and generally the

Terms and Regulations on which the same shall be taken: Provided always, and it is expressly declared, that the Provisions contained in the said recited Act as to the Payment of the Subscriptions and Calls, or otherwise in relation thereto, shall be deemed to apply to the Sum so to be fixed upon as to be paid on or in respect of each new Share, whether the same shall be less or more than the Sum of Fifty Pounds, save that, notwithstanding the Provisions as to the Periods and Amounts of Calls contained in the said recited Act, One or more Call or Calls in respect of the Sum to be so fixed upon may be made at such Period or Periods, and of such Amount or Amounts, as the Committee of Management may think proper, but so that the same be not contrary to any Arrangement under which such Shares may be taken.

Proprietors of new Shares to have a Preference over the present Proprietors, by being first paid a Dividend of 2*l.* 10*s.* per Share.

IV. Provided always, and be it further enacted, That notwithstanding the Provision contained in the said recited Act, that all the Shareholders should be entitled to an equal proportionable Part of the net Profits of the said Undertaking, it shall be lawful for the said Company, with the Consent of Three Fourths in Value of the Proprietors therein, at a Special General Meeting to be called for the Purpose of or relating to the increasing of the Capital of the said Company, to declare, absolutely and irrevocably, that the new Shareholders shall so far have a Preference as that on every new Share to be created under this Act there shall be paid out of the net Profits of the said Undertaking, so far as the same will extend, the Sum of Two Pounds Ten Shillings *per Annum* before any Payment shall be made out of such Profits in respect of the original Shares, and that after such Payment on the new Shares the like Payment shall be made on the original Shares, so far as the Profits shall extend, and that, subject thereto, the net Profits shall be divided proportionably according to the Amount of the Shares, without regard to the Circumstance that the new Shareholders may have paid less or more than such Amount, and that the said Sum of Two Pounds Ten Shillings *per Annum* on every new Share shall be first payable at the Expiration of One Year after the Time when the whole of the Sum to be paid in respect of the Capital of such new Share shall have become payable; and to declare that the net Profits from Time to Time to arise in respect of the said Undertaking shall be always subject, in the first place, to secure the Payment of such annual Sum of Two Pounds Ten Shillings on every new Share, and so as that if in any Year there shall be no Profits, or not sufficient Profits to pay such annual Sum, the Profits of future Years shall be first applicable to make good the Arrears of such annual Sum, but not Interest thereon: Provided nevertheless, if in any Year there shall be paid on the new Shares more than the Sum of Two Pounds Ten Shillings *per* Share, exclusively of Arrears, the Excess shall not be taken into account in respect to any future Year.

Repeal of Clause as to Payment out of the General Funds of 4*l.* per Cent.

V. And whereas by the said recited Act it was provided, that until the Profits of some Year should be sufficient, after the Payment of Expences and paramount Charges, to yield a Dividend at the Rate of Four Pounds *per Centum per Annum* on the Monies paid by the Proprietors in respect of their Subscriptions, it should be lawful for the

the said Company of Proprietors, if any General Meeting of the Proprietors should find and declare the same expedient, at any Time, or from Time to Time, to pay to the Proprietors, by and out of any Funds of the said Company, Interest on the Monies for the Time being so paid by the Proprietors, but so that the Interest for any Year, either alone, or together with any Dividend of Profits, did not exceed the Rate of Four Pounds *per Centum*; be it enacted, That the said lastly recited Provision be and the same is hereby repealed.

Power to raise Money by Mortgage.

VI. Provided always, and be it further enacted, That when and as soon as One Half of the Sum of One hundred and thirty-seven thousand Pounds, being the aggregate Amount of the said Sums of Fifty-seven thousand Pounds and Eighty thousand Pounds, shall have been actually raised and paid to the said Company, it shall be lawful for the said Company to raise the further Sum of Twenty-six thousand Pounds, or any Part thereof, at any Time or Times, by way of Mortgage, in the same Manner as the Sum of Twenty thousand Pounds is by the said recited Act authorized to be raised on Mortgage; but so nevertheless that every or any Mortgage to be made under this Act be subject and postponed, in the Order of Charge, to the Mortgages already made in respect of the said Sum of Twenty thousand Pounds: Provided also, that in case the said Sum of Twenty-six thousand Pounds, or any Part thereof, shall be raised by way of Mortgage as aforesaid, or on Bond as herein-after mentioned, the Money so raised, or any Part thereof, may at One or more Time or Times be paid off by means of the Creation, in the Manner aforesaid, of new Shares; Provided also, that in addition thereto the said Sum of Twenty thousand Pounds by the said recited Act authorized to be raised on Mortgage, or any Part thereof, may in like Manner be paid off by means of the Creation as aforesaid of new Shares.

Power to raise Money by Bond.

VII. And be it further enacted, That it shall be lawful for the said Company of Proprietors from Time to Time, by an Order of any General Meeting or Meetings, ordinary or special, of the said Company, to borrow and take up at Interest, on the Security of the Bond or Bonds of the said Company, and upon such Terms and subject to such Arrangements as the said Company may deem expedient, any Sum or Sums of Money which by the said recited Act or this Act they would be for the Time being authorized to raise on Mortgage; and which Bonds may be in the Form following, or with such Variations as may be deemed expedient; *viz.*,

‘ *Chard* Canal Company.

‘ Bond, Number £ .

Form of Bond.

‘ BY virtue of an Act passed in the Year of the Reign
‘ of Queen *Victoria*, intituled [*here set forth the Title of this Act*],
‘ we, the Company of Proprietors of the *Chard* Canal Navigation, in
‘ consideration of the Sum of Pounds to us paid by
‘ *A. B.* of do bind ourselves and our Successors
‘ unto the said *A. B.*, his Executors, Administrators, and Assigns, in
‘ the penal Sum of Pounds. The Condition of this
‘ Obligation is such, that if the said Company shall pay to the said
‘ *A. B.*, his Executors, Administrators, or Assigns, the said Principal

‘ Sum

'Sum of Pounds on the Day of and
'if from Time to Time the said Company shall, by half-yearly Pay-
'ments on every Day of and Day
'of pay to him or them Interest at the Rate of
'Pounds *per Centum per Annum* on the said Principal Sum, then this
'Obligation shall become void, but otherwise should remain in full
'Force. Given under our Common Seal this Day of .'

And a Memorial of every such Bond, containing the Number and Date thereof, and the Name and proper Addition of every or any Person to whom the same shall be given, and the Sum of Money borrowed, and the Rate of Interest to be paid thereon, shall, within Ten Days after the Date thereof, be entered in a Book to be kept by a Clerk of the said Company of Proprietors, which said Book may be perused at all seasonable Times by any of the Proprietors or Creditors of the said Undertaking, or other Persons interested therein, without Fee or Reward; and every Person to whom any such Bond shall be given as aforesaid, his or her Executors, Administrators, or Assigns, may, by a Deed in Writing duly stamped, from Time to Time at Law transfer the same, and the Money thereby secured, to any Person or Persons whomsoever; which Transfer may be in the Form following, with such Variations as may be deemed expedient; *viz.*,

Bonds may be transferred.

'I *A. B.* of in consideration of the Sum of
'paid to me by *C. D.* of do hereby transfer to the said
'*C. D.*, his Executors, Administrators, and Assigns, a certain Bond,
'Number made by the Company of Proprietors of the *Chard*
'Canal Navigation to me the said *A. B.*, bearing Date the
'Day of for securing the Sum of and Interest,
'and on which there is now due the Principal Sum of in
'addition to the Sum of for Interest, and all the Principal
'and Interest Monies thereby secured. In witness whereof I have
'hereunto set my Hand and Seal this Day of .'

Form of Transfer of Bond.

And every such Transfer shall, within Twenty-eight Days after the Date thereof, be produced to the Clerk of the said Company of Proprietors, who shall cause a Memorial to be made thereof in like Manner as of the original Bond, for which the said Clerk shall be paid by the Transferee or Transferees Two Shillings and Sixpence; and after such Memorial made every Transfer shall entitle such Transferee or Transferees, his, her, and their Executors and Administrators, to the full Benefit of such Bond, and so and in such Manner as that he, she, or they may, in his, her, or their own Names or Name, at Law sue the said Company and their Successors thereon, and as that the Transferor or Transferors, his, her, or their Executors or Administrators, shall not have Power to release the same Bond, or receive or affect the Monies thereby secured: Provided always, that the Person entitled, either originally or by Transfer, to the Monies secured by such Bonds shall take *pari passu* according to the Amounts of such Monies, and shall have no Preference or Priority of Payment, notwithstanding any Difference in the Dates of such Bonds, or the Periods when Judgments may be obtained thereon, or any other Circumstance; but nevertheless every such Person shall, under all Circumstances, be postponed to the Persons entitled, either originally

or

or by Transfer, to the Monies secured by any Mortgages made or to be made under the said recited Act or this Act, it being intended that all the Mortgagees of the said Company shall be paid in preference to the Holders of the said Company's Bonds.

In case the Mortgages or Bonds shall be paid off, the Company may raise the Amount again.

VIII. And be it further enacted, That in case the said Company of Proprietors shall pay off any Principal Money raised or to be raised by Mortgage or Bond under the said recited Act or this Act, then and in every such Case it shall be lawful for the said Company, at any Time or Times thereafter, again to raise, either on Mortgage or Bond, in lieu of the Principal Money so paid off by them, so much Money as they shall from Time to Time have paid off, and so from Time to Time as often as the same shall happen.

Repeal of Clause as to Composition for Tolls.

IX. And whereas by the said recited Act it was enacted and declared, that it should be lawful for the said Company, by themselves or their Committee, from Time to Time to contract or compound with any Person or Persons for the Passage of his, her, or their Boats, Barges, Vessels, and Rafts, or any of them, upon and along the Whole or any Part of the said Canal and Cut respectively, for any Term not exceeding Three Years at one Time, upon such Terms and Conditions, and subject to such Restrictions, as might appear expedient; be it enacted, That the said recited Provision be and the same is hereby repealed.

Rates and Tolls to be charged equally.

X. And be it further enacted, That the Rates, Tolls, or Duties by the said recited Act granted shall at all Times be charged equally, and after the same Rate, throughout the whole Length of the said Canal and Cut and Works respectively; and no Reduction or Advance in the said Rates, Tolls, or Duties shall, either directly or indirectly, be made partially or in favour of or against any particular Person or Company, or be confined to any particular Part of the said Canal, Cut, or Works, but every such Reduction or Advance of Rates, Tolls, or Duties shall extend to and take place throughout the Whole and every Part of the said Canal, Cut, and Works respectively, and shall extend to all Persons whomsoever using the same Canal, Cut, or Works respectively; any thing to the contrary thereof in anywise notwithstanding.

Company to keep a separate Account of Tolls for the Use of the Canal.

XI. And be it further enacted, That in all Cases in which the said Company shall carry for their own Profit any Passengers, Cattle or other Animals, Goods, Wares, and Merchandize, Articles, Matters, or Things, a separate Account shall be duly kept, showing the Amount of the Rates or Tolls which would have been received by the said Company for the Use of the said Canal in respect of such Passengers, Cattle or other Animals, Goods, Wares, or Merchandize, Articles, Matters, or Things, if carried by any other Party or Parties; and the said Company shall also keep an Account of all Tolls and Rates which shall be actually received by them for the Carriage of the same; and the Overseers of the Poor of the several Parishes through which the said Canal will pass shall have free Access and Liberty to inspect the same, at any Time during the first Fourteen Days in the Months of *February* and *August* in each Year; and if the said Com-

pany shall refuse to keep such Accounts, or to permit such Inspection thereof as aforesaid, they shall forfeit and pay to each Overseer who shall demand the Inspection of the said Accounts or either of them, and who shall be refused the Inspection of the same or either of them, and for every Failure to keep such Accounts, the Sum of Three hundred Pounds, and the further Sum of Fifty Pounds for every Day during which the Failure to permit such Inspection shall continue; and such Penalties shall be recoverable, by Action of Debt or on the Case, in any of Her Majesty's Superior Courts at *Westminster*, and shall be applied for the Benefit of the Poor of the Parish within which such Failure shall occur.

Corporations, &c. may sell further Lands to the Company.

XII. And be it further enacted, That all Corporations and Persons by the said recited Act capacitated to sell and convey to the said Company Hereditaments required for the said Canal and Works may (if they shall be willing, but not otherwise) sell and convey to the said Company any such Hereditaments required for the said Canal and Works as the said Company, in consequence of the Period limited for the compulsory Purchase of Hereditaments having expired, may not be able to force them to part with, but subject nevertheless to the general Provisions of the said recited Act.

Lands bought of any Corporation, or Person under Disability, to to be valued by Two Surveyors or their Umpire.

XIII. Provided always, and be it further enacted, That the Consideration Money to be paid for any Hereditaments to be purchased from or conveyed by any Corporation, or any Person under any Disability or Incapacity, or not having Power to sell except under the Provisions of this or the said recited Act, shall in no Case be less than such Sum as the same shall be estimated at by the Verdict of a Jury, or by Two able practical Surveyors, one of whom shall be nominated by the said Company, and the other by the Corporation or Person contracting or agreeing to sell the same; and if such Two Surveyors shall not agree in the Valuation thereof, then by such Third Surveyor as Two Justices acting for the said County of *Somerset*, in General or Petty Sessions assembled, shall for that Purpose nominate; and each of the said Two Surveyors, if they shall agree in and make their Valuation, or if not, then the Surveyor so to be nominated by the Justices as aforesaid, shall annex to their or his Survey, Estimate, or Valuation, when completed, a Declaration of the Correctness thereof; and the Costs, Charges, and Expences of each and every such Valuation shall be paid by the said Company.

Repealing Clause as to Limitation of Actions.

XIV. And whereas it is by the said recited Act enacted, that no Action, Suit, or Information should be brought or commenced against any Person or Persons for any thing to be done in pursuance or under colour of the said Act, or of the Powers or Authorities therein contained, unless Fourteen Days previous Notice should be given in Writing by the Person or Persons intending to commence such Action, Suit, or Information to the proposed Defendant or Defendants, nor after sufficient Satisfaction tendered by the proposed Defendant or Defendants, nor unless such Action, Suit, or Information should be brought or commenced within Six Calendar Months next after the Fact committed, or in case there should be a Continuation of Damages, then within Six Calendar Months next after the

doing or committing such Damage should have ceased, and not afterwards, and should be laid and brought in the County where the Matter in Dispute or Cause of Action should arise, and not elsewhere; and that the Defendant or Defendants in such Action, Suit, or Information might plead the General Issue, and give the said Act and the Special Matter in Evidence, at any Trial to be had thereupon, and show that the same was done in pursuance of the said Act, or in due Execution of the Powers or Authorities therein contained; and if it should happen to have been so done, or if any such Action, Suit, or Information should have been brought or commenced before or after the Time limited for bringing the same, or in any County or Place than as aforesaid, or after sufficient Satisfaction tendered as aforesaid, then and in every such Case the Jury should find for the Defendant or Defendants: And whereas it is expedient the said Provision should be repealed; be it therefore enacted, That the said Provision shall be and the same is hereby declared to be repealed.

Time enlarged for completing the Canal.

XV. And be it further enacted, That the Time by the said recited Act allowed for completing the said Canal and Works shall be and is hereby extended for the further Term of Two Years, to be computed from the Expiration of the Term of Seven Years in the said Act for that Purpose mentioned.

Paying the Expences of the Act.

XVI. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and all other Costs, Charges, and Expences concerning the same, shall be paid by the said Company of Proprietors in preference to any other Payments whatsoever.

Public Act.

XVII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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