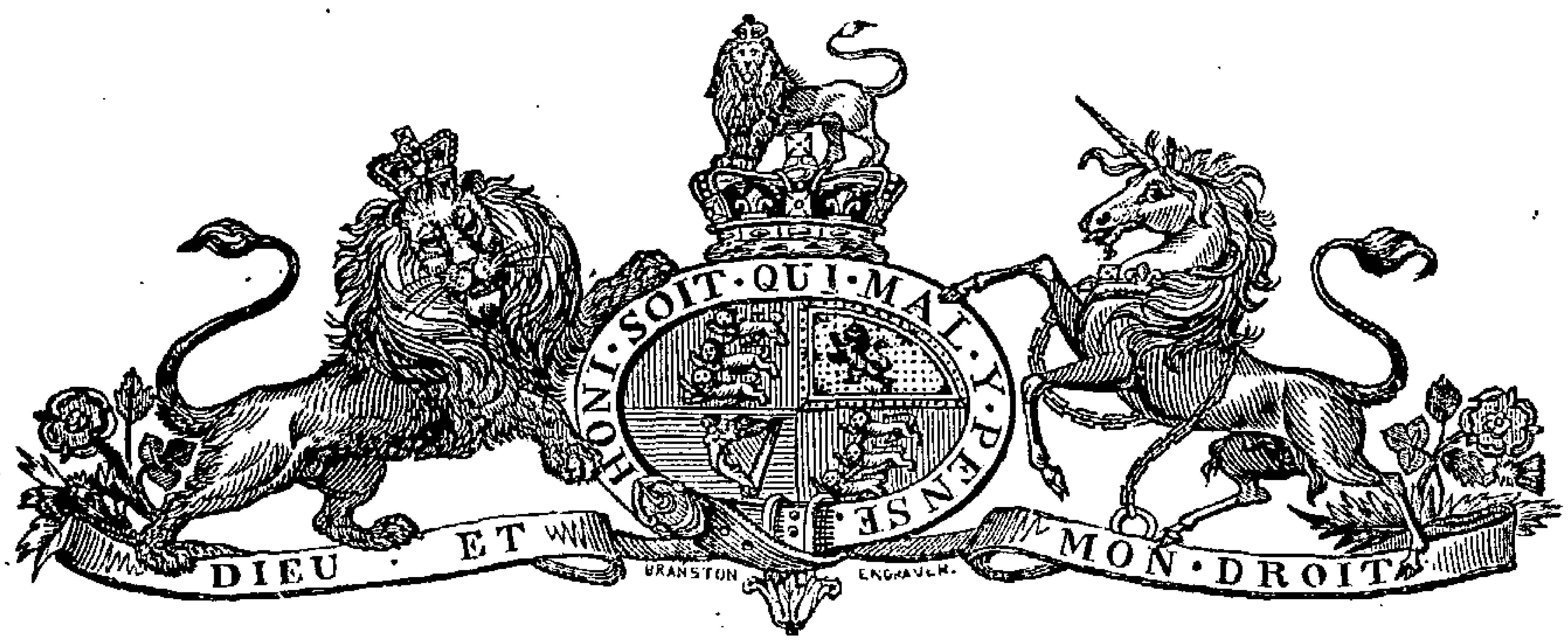


ANNO TERTIO

VICTORIÆ REGINÆ.

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Cap. XV.

An Act to enable the *Manchester* and *Salford* Junction Canal Company to raise a further Sum of Money; and to alter, amend, and enlarge some of the Powers and Provisions of the Act relating to the said Canal. [3d *April* 1840.]

WHEREAS an Act was passed in the Sixth and Seventh Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making and maintaining a navigable Canal to connect the* Rochdale *Canal and the River* Irwell *in the Township of* Manchester *in the County of* Lancaster: And whereas the Monies which the Company incorporated by the said recited Act are thereby authorized to raise have been found insufficient to enable them fully to carry into effect the Purposes of the said Act; and it is expedient that the said Company should be authorized to raise a further Sum of Money, and that some of the Powers and Provisions of the said Act should be altered, amended, and enlarged: But as the Purposes aforesaid 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, That all the Powers, Authorities, Provisions, Restrictions, Privileges, Exemptions, Exceptions, Penalties, Forfeitures, Payments, Rules,

6 & 7 W. 4. c. 115.

Provisions of former Act extended to this Act.

Rules, Regulations, Remedies, Directions, Articles, Matters, and Things whatsoever contained in the said recited Act, and which are now in force and applicable to the Purposes of this Act, shall (except so far as the same or any of them is or are hereby varied, altered, or repealed, or otherwise provided for,) continue in force and extend to this present Act, and to the Matters and Things hereby authorized, and the Monies hereby authorized to be raised, and to the Securities to be granted in respect of or for securing the same or any Part thereof, and the Transfer of such Securities, and the Proprietors or Holders thereof, their Successors, Executors, Administrators, and Assigns, and shall operate and be in force for carrying this Act into execution, in as full, ample, and beneficial a Manner, to all Intents and Purposes whatsoever, as if the same had been herein repeated, and adapted and applied to the Purposes of this Act.

Power to create new Shares.

II. And be it further enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered, by Order of any Special or General Meeting of the said Company to be from Time to Time held for that Purpose, to raise, by Contribution amongst themselves, or by Admission of other Persons as Subscribers thereto, or in part by each or either of those Means, and in such Shares and Proportions as they may think proper, any Sum not exceeding the Sum of Twenty-five thousand Pounds; and it shall be lawful for the said Company, and they are hereby authorized and empowered, to issue any Number of Shares, at such Price and in such Manner as shall be determined at any Special or General Meeting or Meetings of the said Company, and the further Sum so raised shall be considered as Part of the Capital or Joint Stock of the said Company; and all Persons or Corporations subscribing towards raising such further Sum of Money shall be liable to such Forfeitures, and be under the same Rules, Regulations, and Restrictions, as in the said recited Act is provided for the original Proprietors of Shares, and after having paid the Amount determined for each Share as aforesaid shall be Proprietors of the said Undertaking, and have the like Votes, either personally or by Proxy, in respect of such further Shares, and have the like Rights and Privileges, and stand interested in the Dividends and Profits of the said Undertaking, as generally and extensively, to all Intents and Purposes, as if they had been original Subscribers to the said Undertaking, and had paid the full Amount fixed at the said Meeting as the Value to be borne by such new Shares in the Capital Stock of the said Undertaking, and as if such further Sum hereby authorized to be raised had been Part of the original Capital of the said Company: Provided always, that if it shall be determined at any Special or General Meeting to issue any further Number of Shares under the Authority of this Act, the said Company are hereby authorized and empowered to make Calls for the Amount fixed as the Price of such Shares, at such Periods as they may think fit, and with the same Remedies for the Recovery thereof as is provided in the said recited Act for the original Shares; but it shall not be lawful for the said Company to call, in respect of such Shares, for more than the Sum which may have been fixed as aforesaid as the Price to be paid in respect thereof; Provided also, that it shall not be lawful for the Directors

Directors or Committee of Management of the said Company to sell or dispose of any of the said additional Shares to any Parties not being Proprietors in the said Undertaking, unless and until they shall have offered such Shares among the said Proprietors, in proportion to the Number of Shares held by them respectively in the Capital Stock of the said Company at the Time of such Offer, which Offer may be made by Letter under the Hand of the Clerk of the said Company, sent by Post to the said Proprietors respectively, or left at their respective usual Places of Abode or Business; and the Neglect of any such Proprietor to accept the Shares offered to him, and to pay thereon the Deposit required to be paid by the said Directors or Committee of Management, within Fourteen Days after the making of the Offer, shall be considered as a Refusal to accept of the Shares thereby offered, and thereupon such Shares may be sold or disposed of to any other Persons not being Proprietors of other Shares in the said Undertaking.

Power for the Mersey and Irwell Navigation Company to subscribe the additional Capital.

III. And whereas the said Canal by the said recited Act authorized to be made will connect the River *Irwell* with the *Rochdale* Canal, and the *Manchester*, *Bolton*, and *Bury* Canal, and will tend to increase the Traffic of such River, or will be otherwise beneficial thereto; be it therefore enacted, That it shall be lawful for the said Company of Proprietors of the *Mersey* and *Irwell* Navigation, after an Order to that Effect of any General or Special Meeting of the said Company, and in addition to the Sum of Ten thousand Pounds by the said recited Act authorized to be subscribed by them, to subscribe the said Sum of Twenty-five thousand Pounds authorized to be raised by this Act, or any Part thereof; and thereupon the said Company so subscribing may have and be possessed of as many of the said new Shares hereby authorized to be created as will be in proportion to their subscribed or other Capital, and be in all respects entitled to and possess all such and the same Privileges and Rights as any other Proprietors of Shares shall or may have in the said Undertaking, in proportion to their subscribed Capital.

Power to borrow Money.

IV. And be it further enacted, That when and so soon as One Half of the Money authorized to be raised by Subscription by this Act shall have been paid up it shall be lawful for the said Company, by Order from Time to Time of any General or Special General Meeting of the said Company, to borrow and take up at Interest, in addition to the Sum which they are by this and the said recited Act authorized to raise as aforesaid, any Sum or Sums of Money not exceeding in Amount in the whole the Sum of Ten thousand Pounds, and to secure the Repayment thereof, with Interest, in like Manner as the Sums authorized to be raised by Mortgage by the said recited Act, but subject and without Prejudice to any Mortgage made or to be made pursuant to the said recited Act, and to the prior Right of Payment of every such last-mentioned Mortgage.

Power to sell the Canal to the Mersey and Irwell Navigation,

V. And whereas the said *Manchester* and *Salford* Junction Canal may be worked more beneficially to the Public, and with much less Expence, by the Company of Proprietors of the *Mersey* and *Irwell*

Navigation Company.

Navigation, than by the said *Manchester* and *Salford* Junction Canal Company; be it therefore enacted, That it shall be lawful for the said last-mentioned Company, with such Consent as herein-after mentioned, to sell and convey their said Canal, and all the Works connected therewith, and all their Rights, Powers, and Privileges in reference thereto, but subject to any existing Mortgages, Contracts, or Agreements affecting the same, and subject also to the several Provisions in the said recited Act, to the said Company of Proprietors of the *Mersey* and *Irwell* Navigation; and the said last-mentioned Company is hereby empowered to effect such Purchase, and to have, hold, use, exercise, and enjoy the said *Manchester* and *Salford* Junction Canal and Works, when conveyed to them, and all the Rights, Powers, and Privileges of the said *Manchester* and *Salford* Junction Canal Company in relation thereto, or otherwise so much of the said Canal and Works as may be conveyed to them, and the several Rights, Powers, and Privileges of the said *Manchester* and *Salford* Junction Canal Company, with reference to the Portion so conveyed: Provided always, that it shall not be lawful for the said *Manchester* and *Salford* Junction Canal Company to sell, or for the said Company of Proprietors of the *Mersey* and *Irwell* Navigation to purchase, the said *Manchester* and *Salford* Junction Canal, or any Portion thereof, unless with the Consent of Three Fifths of the respective Shareholders of the said several Companies assembled at some Meeting or Meetings of the said respective Companies specially convened for the Purpose of authorizing such Sale or Purchase, as the Case may be, by Advertisement inserted for Four successive Weeks in some Newspaper published in each of the Counties through which the said Canal and Navigation shall respectively pass.

For preventing Escape of Water from the Rochdale Canal,

VI. And whereas it is by the said recited Act enacted that the Branch Canal from the said *Mersey* and *Irwell* Navigation to the *Rochdale* Canal shall be so made and constructed that the Surface of the Water of the said Branch Canal shall at all Times be Six Inches at the least above the Bye-wash at the Tib-lock Head in the said *Rochdale* Canal; and that the Lock to be made in the said Branch Canal should be so made and constructed that the Gates thereof could not be opened unless the Surface of the Water in the said Branch Canal were of the Height of Three Inches above the said Bye-wash; and it was by the said recited Act provided, that there should be no Paddles or Apertures either in the Top Gates or Side Walls of the said Summit Lock, by or through which any Water could be drawn from the *Rochdale* Canal or Basins into the said Company's Locks, Branch Canal, or Tunnel; and it was further provided, that the said Company should not draw Water from the said Summit Lock before the Top Gates of the same were properly closed so that no Water could escape through them for the Supply of the Canal thereby authorized from the said *Rochdale* Canal or Basins; and that the whole of the Company's Locks and different Works should be liable from Time to Time to be inspected by the said Trustees of the Duke of *Bridgewater*, or any of their Agents or Surveyors for the Time being; and the said Company of Proprietors thereby incorporated were thereby required not to take or abstract any Water whatever from the said *Rochdale* Canal, for the Supply of the said projected

Canal thereby authorized: And whereas the Summit Lock constructed by the said Company of Proprietors of the *Manchester* and *Salford* Junction Canal, in pursuance of the said recired Act, is not in the Judgment of the Trustees of the said Duke of *Bridgewater* sufficient for the Purposes intended, and does not in their Judgment effectually prevent the Abstraction of Water from the said *Rochdale* Canal, and it is therefore expedient that such further Provision should be made as herein-after contained for preventing any Abstraction of Water from the said *Rochdale* Canal; be it therefore enacted, That the said Company of Proprietors of the *Manchester* and *Salford* Junction Canal shall and they are hereby required, within Twelve Calendar Months next after the passing of this Act, well and effectually, and to the Satisfaction of the said Trustees of the Duke of *Bridgewater*, or their principal Agent or Engineer for the Time being, to repair or reconstruct the said Summit Lock in some Part of the said Canal between the said *Rochdale* Canal and the Tunnel of the said *Manchester* and *Salford* Junction Canal, so that the same shall be effectual for preventing the Escape of any Water from the said *Rochdale* Canal; and that in default of the said Company of Proprietors of the said *Manchester* and *Salford* Junction Canal so repairing or reconstructing the said Lock, in manner and within the Time before mentioned, then and in such Case the said Trustees of the Duke of *Bridgewater*, their principal Agent or Engineer, shall and they are hereby empowered, by and at the Costs and Expences in all Things of the said Company, to make and construct such Lock, in such Part of the said Canal as lies between the said *Rochdale* Canal and the said Tunnel on the said *Manchester* and *Salford* Junction Canal, and in such Manner as they shall think proper, so that no Water can be drawn from the said *Rochdale* Canal into or for supplying the Lockage of the said *Manchester* and *Salford* Junction Canal: And it is hereby further enacted, that in the Event of the said Lock being so repaired or reconstructed by the said Trustees, or their Agent or Engineer, the said Company of Proprietors of the said *Manchester* and *Salford* Junction Canal shall forthwith, on Demand, reimburse and discharge to the said Trustees, or their Agent or Engineer for the Time being, all Expences which they or any of them may incur in or about the Completion of the said Lock.

Bye Laws to be confirmed.

VII. And be it further enacted, That no Bye Law which the said Company may have heretofore made under Authority of the said recited Act (except such as may relate solely to the Proprietors or Directors of the said Company, or to any of their Officers or Servants,) shall be valid or binding for a longer Period than Six Months from the passing of this Act; nor shall any Bye Law, except as aforesaid, which shall hereafter be made by the said Company, be valid or binding unless the same shall be allowed by some Judge of One of Her Majesty's Courts of Record at *Westminster*, or by the Justices of the County of *Lancaster* at *Salford* in Quarter Sessions assembled, which said Justices are hereby authorized and required, on the Request of the said Company, to examine into the Bye Laws which may be tendered to them for that Purpose by the said Company, and to allow of or disallow the same, as to them may seem meet; and all Penalties which may be imposed by virtue of any such Bye

Laws shall be so framed as to allow the Justice or Justices before whom the same may be sought to be recovered to order the Whole or any Part of such Penalties to be paid: Provided always, that no such Bye Laws shall be confirmed unless Notice of the Intention to apply for a Confirmation of the same shall have been given in One or more Newspapers of the said County of *Lancaster* One Month at least before the hearing of such Application; and any Party aggrieved by any such Bye Law, on giving Notice of the Nature of his Objection to the said Company Ten Days before the hearing of such Application, may, by himself, his Counsel or Agent, be heard thereon, but not so as to allow more than One Party to be heard upon the same Nature of Objection.

Repealing the Provisions of recited Act respecting Limitation of Actions.

VIII. And whereas by the said recited Act it is enacted, that if any Action, Suit, or Information shall be brought or commenced by any Person, for any thing done or to be done in pursuance of this Act, or in execution of the Powers and Authorities or the Orders and Directions herein-before given or granted, every such Suit or Information shall be brought or commenced within Six Calendar Months next after the Fact shall have been committed, or in case there shall be a Continuance of Damages then within Six Calendar Months next after the doing or committing of such Damage shall have ceased, and not afterwards, and shall be laid or brought within the said County Palatine of *Lancaster*, and not elsewhere; and the Defendant in such Action or Suit shall and may, at his Election, plead specially, or plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by Authority of this Act; and if it shall appear to have been so done, or if any Action, Suit, or Information shall be brought after the Time so limited for bringing the same, or shall be brought in any other County than as aforesaid, then and in such Case the Jury shall find for the Defendant; and in such Case also, or if the Plaintiff shall become Nonsuit, or suffer a Discontinuance of his Action, Suit, or Information after the Defendant shall have appeared thereto, or if any Verdict shall pass against the Plaintiff, or if upon Demurrer or otherwise Judgment shall be given against the Plaintiff, the Defendant shall have his Costs, and shall have such Remedy for the Recovery of the same as any Defendant hath in other Cases by Law: And whereas it is expedient that the said recited Provisions should be repealed; be it therefore enacted, That the same shall be and the same are accordingly hereby repealed.

Saving Rights of Duke of Bridgewater's Trustees.

IX. And be it further enacted, That nothing in this Act contained shall extend, or be deemed or construed to extend, to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, Franchises, and Authorities of or vested in or belonging to the Devisees of the late Duke of *Bridgewater*, or any of the Rights, Privileges, Powers, Franchises, and Authorities of or vested in or belonging to the Company of Proprietors of the *Rochdale* Canal.

Saving the Rights of the Liverpool

X. Provided always, and be it further enacted, That nothing in this Act contained, or which may be done pursuant to or by virtue

or under colour of this Act, shall extend, or be in anywise deemed or construed to extend, to prejudice, diminish, alter, take away, or in any Manner affect any of the Rights, Privileges, Powers, or Authorities of or which are vested in the *Liverpool* and *Manchester* Railway Company under or by virtue of the Act first herein-before referred to, or the several Acts relating to the said *Liverpool* and *Manchester* Railway, or otherwise howsoever. and Manchester Railway Company.

XI. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act shall be paid and discharged by the said Company out of the first Monies which shall come to their Hands after the passing of this Act. Providing for Expences of this Act.

XII. 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. Public Act.

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