ANNO TERTIO

VICTORIÆ REGINÆ.

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Cap. xliii.

An Act for amending the Powers and Provisions of several Acts relating to the holding of Markets in the Town of *Taunton* in the County of *Somerset*, and to the Improvement of the said Town.

[19th *May* 1840.]

WHEREAS an Act was passed in the Ninth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for erecting a Market House and holding a Market* 9 G. 3. c. 44. *in the Town of* Taunton *in the County of* Somerset, *and for preventing the holding of any Market in the Streets of the said Town; and for cleansing the Streets, and preventing Nuisances and Obstructions therein; and for lighting certain Streets in the said Town:* And whereas another Act was passed in the Fifty-seventh Year of the Reign of His said Majesty King *George* the Third, intituled *An Act for* 57 G. 3. c. 65. *enlarging the Market Place, and regulating the Market, in the Town of* Taunton *in the County of* Somerset, *and for better lighting, cleansing, and otherwise improving the said Town; and for amending an Act of His present Majesty relative thereto:* And whereas another Act was passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for better regulating the* 3 & 4 W. 4. *Market, and cleansing the Streets and preventing Nuisances, in the* c. 47. *Town of* Taunton *in the County of* Somerset; *and for amending*

Two several Acts of His late Majesty King George *the Third relative thereto*: And whereas the Trustees appointed by virtue of the said recited Acts have effected the Objects therein contemplated to the Extent of the Means and Powers thereby intrusted to them; but such Means and Powers are inadequate to meet the Necessities occasioned by the Enlargement of the said Town, and the increased Population thereof; and it is expedient that some of the Powers and Provisions of the said Acts should be altered, amended, and enlarged, and further Powers be granted to the said Trustees: 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 the Trustees appointed by virtue of the said recited Acts or any of them shall execute this Act as well as the said recited Acts, and shall proceed in the Execution thereof according to such of the subsisting Provisions of the said recited Acts as are not inconsistent with the Provisions herein contained.

Trustees appointed under the recited Acts to execute this Act.

Repeal of Provision in *Act of* 9 G. 3. respecting Limitation of Actions.

II. And be it further enacted, That so much of the said recited Act of the Ninth Year of the Reign of His Majesty King *George* the Third as enacts that if any Action should be brought or Suit commenced for any thing done in pursuance of that Act, such Action or Suit should be brought within Six Months next after the Fact committed, and the Venue for the Trial of the Issue should be laid in the County of *Somerset*, and that the Defendant might plead the General Issue, and that in certain Cases the Jury should find for the Defendant, who might recover Treble Costs, shall be and the same is hereby declared to be repealed.

Trustees empowered to set up and hold new Markets, and to receive Tolls.

III. And be it further enacted, That, notwithstanding any thing in the said recited Acts or any of them contained to the contrary, it shall be lawful for the said Trustees, from Time to Time and at all Times hereafter, to set up and hold and continue all and every such Markets and Market for the Sale of any Cattle, Provisions, or other Article or Articles whatsoever, as they shall from Time to Time think fit, within the Limits of the said Town of *Taunton* as herein-after defined, and to receive, for and in respect of all and every such new Markets or Market, all Tolls, Rents, and Dues payable under the said recited Acts or either of them, in respect of the said Market, as they shall think fit; and all and singular the Enactments, Clauses, Provisoes, and Regulations in the said several recited Acts or either of them contained, for the Collection of the said Tolls and Dues, and for restraining other Persons than the said Trustees from holding any Market in the Town of *Taunton*, shall be deemed and taken to extend to the same enlarged Limits: Provided always, that the said enlarged Limits as herein-after defined shall for all the Purposes of the said recited Acts and this Act be deemed and taken to be substituted for the Limits of One thousand Yards in the said recited Acts mentioned and specified; and that all the Powers, Provisoes, Limitations, Clauses, and Conditions in the said recited Acts and this Act, or either of them, contained, shall for all Purposes whatsoever be

deemed and taken to extend to the Limits of the Town of *Taunton* as herein-after defined, and not elsewhere: Provided also, that nothing herein contained shall, as far as relates to any additional Grounds, Houses, or Buildings to be vested in or purchased by the said Trustees by virtue of this Act, and which the said Trustees are not authorized to take or purchase under the said recited Acts or either of them, vary or alter any Liability to be rated to Parochial Rates, Taxes, or Impositions to which the same would have been subject in case this Act had not been passed; nor shall any thing herein contained be deemed or construed to prejudice or affect any Question or Suit between the Trustees of the said Market, and the Parish or Parishes into which the said Market extends, by virtue of the said secondly recited Act.

Trustees empowered to borrow further Sums, not exceeding 5,000*l.*

IV. And be it further enacted, That the said Trustees may from Time to Time borrow Money, in addition to that already borrowed by them, and may assign the Tolls of the said Market or Markets, in manner in the said recited Acts mentioned, to the Person or Persons advancing such Money, as a Security for the Repayment of the same, with Interest thereon at any Rate not exceeding the Rate of Five Pounds *per Centum per Annum:* Provided always, that the whole Principal Sum to be borrowed in pursuance of this Act shall not exceed the Sum of Five thousand Pounds.

Application of the Monies to be borrowed.

V. And be it further enacted, That the Sum or Sums of Money to be borrowed in pursuance of this Act shall be applied, firstly, in paying the Expences of preparing and obtaining this Act; and, secondly, to all or any of the Purposes of this and of the said recited Acts.

Power to embank the Town Stream, and repair the Banks and Channel thereof, and maintain them in a State of Repair.

VI. And whereas there is an ancient unfailing Stream of Water which rises at a Place called *Stockwell*, in the Parish of *Pitminster* in the County of *Somerset*, and flows through the Parishes of *Pitminster*, *Wilton*, *Taunton St. Mary Magdalen*, and *Taunton St. James*, into and through the said Town of *Taunton*, called the *Town Stream*, by which the Inhabitants are supplied with Water; but the Banks of the said Stream are constantly out of repair, so that a great Portion of the Water which would otherwise be available for the Purpose of cleansing the Streets of the said Town is wasted and diverted from its proper Course; and it is expedient that the said Trustees should have Power to repair and keep in repair the Banks of the Channel of the said Stream; be it therefore enacted, That the said Trustees may, if they shall think fit, embank the said Stream, and repair the present Banks and the Channel of the said Stream, and put the same in a complete State of Repair; and that the said Trustees may, if they shall think fit, from Time to Time maintain in good Repair all Works done by them in pursuance of this Act for the Preservation of the said Stream; and for the Purpose of executing the same Works the said Trustees, or any Person or Persons authorized by them, may enter upon any of the Lands adjoining the said Stream, and may wall in or otherwise confine and secure the Banks and the Channel thereof, and may cleanse out the same, and remove all Obstructions therein, the said Trustees paying to the Owners and Occupiers of the Lands adjoining the said Stream all such Damages as such Owners or Occupiers shall

shall from Time to Time sustain by reason of any Works of the said Trustees; the Amount of such Damage to be ascertained by any Two or more Justices of the Peace for the County of *Somerset* in Petty Sessions assembled, in case of Disagreement about the same, who may issue their Warrants of Distress on the Treasurer to the said Trustees, if Payment be not made in Three Days after Demand thereof.

Trustees may purchase Lands, with Consent, for Improvements.

VII. And be it further enacted, That it shall be lawful for the said Trustees and they are hereby empowered to contract with any Person or Corporation who shall be willing to sell the same for the Purchase of any Lands, Tenements, and Hereditaments, or any Part of any Lands, Tenements, or Hereditaments which the said Trustees shall consider necessary, for the Purpose of improving any of the Roads, Streets, Ways, Lanes, or other public Passages or Places within the said Town, and for improving the Waterworks for watering and cleansing the Streets, or for enlarging the Market Places within the same; and it shall be lawful for all Corporations and Persons whomsoever (including especially such or the like Corporations and Persons as are by the said recited Acts capacitated to sell and convey to the said Trustees for the Purposes thereof) to sell and convey any Lands, Tenements, or Hereditaments for the Purposes herein-before mentioned, in the same Manner, and under the same Regulations and Restrictions, as are contained in the said recited Acts concerning the Lands, Tenements, and Hereditaments thereby authorized to be purchased.

Application of Purchase Money when amounting to Two hundred Pounds.

VIII. And be it further enacted, That if any Money shall be contracted or agreed to be paid for the Purchase of any Lands, Tenements, or Hereditaments, for the Purposes of this and the said recited Acts, which shall belong to any Corporation, Tenant for Life or in Tail, or Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Feme Covert, Infant, Idiot, Lunatic, or other Cestuique Trust, not absolutely entitled in his own Right, or to any Person whose Lands, Tenements, and Hereditaments are limited in strict Settlement, or to any Person under any other Disability or Incapacity, or which any Corporation or Person is by the said recited Acts or this Act capacitated to convey, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of Her Majesty's Court of Exchequer at *Westminster*, to be placed to his Account there *ex parte* the Trustees of the *Taunton* Town and Market Regulation Acts, pursuant to the Directions of an Act passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall when so paid in there remain until the same shall, by Order of the said Court, made in a summary Way upon Petition to be presented to the said Court by the Party who would have been entitled to the Rents and Profits of the said Lands, Tenements,

1 G 4. c. 35.

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ments, or Hereditaments, be paid to such Party, or be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes as the said Court of Exchequer shall authorize to be purchased or paid, or such Part thereof as shall be necessary; or until the same shall, upon the like Application, be laid out, by Order of the said Court made in a summary Way, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands, Tenements, or Hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the Time of making the Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such Purchase can be made, the said Money may, by Order of the said Court of Exchequer, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or in Government or Real Securities; and in the meantime, and until such Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, or shall be called in or cancelled, the Dividends or Interest and annual Produce thereof shall from Time to Time, by Order of the said Court, be paid to the Corporation or Person who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so to be purchased and settled.

When less than Two hundred Pounds and exceeding Twenty.

IX. Provided always, and be it further enacted, That if any Money so contracted or agreed to be paid for any Lands, Tenements, or Hereditaments, to be purchased for the Purposes of this and the said recited Acts, and belonging to any Corporation, or to any Person under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then the same shall, at the Option of the Corporation or Person for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used, or of the Husband, Guardian, or Committee, in case of Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the Trustees for executing this Act, to be signified in Writing under the Hands of Three at least of them, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the said Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the respective Parties exercising such Option, and approved of by the Trustees for executing this Act, such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce so arising thereon and therefrom, shall be by such Trustees applied in like Manner as is herein-before directed with respect to the

Money so to be paid into the Bank of *England* in the Name of the Accountant General of the Court of Exchequer, but without being required to obtain any Order of the said Court touching the Application thereof.

When less than Twenty Pounds.

X. Provided also, and be it further enacted, That when any Money so contracted or agreed to be paid as aforesaid shall not exceed the Sum of Twenty Pounds, then the same shall be paid to the respective Parties who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so to be purchased for the Purposes of this and the said recited Acts, for their own Use and Benefit; or in case of Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their respective Husbands, Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

Where Questions shall arise touching the Title to any Money so paid into the Bank.

XI. And be it further enacted, That where any Question shall arise touching the Title of any Corporation or Person to any Money to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, in pursuance of this and the said recited Acts, for the Purchase of any Lands, Tenements, or Hereditaments to be purchased in pursuance of this and the said recited Acts, or to any Bank Annuities, or Government or Real Securities, the Corporation or Person who shall have been in possession of such Lands, Tenements, or Hereditaments at the Time of such Purchase, and all Persons claiming under such Corporation or Person, or under the Possession of such Corporation or Person, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according to such Possession, until the contrary shall be shown to the Satisfaction of the said Court; and the Dividends or Interest of the Bank Annuities, or Government or Real Securities, to be purchased with such Money, and also the Capital of such Bank Annuities, or Government or Real Securities, shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the said Court that such Possession was a wrongful Possession, and that some other Corporation or Person was lawfully entitled to such Lands, Tenements, or Hereditaments, or to some Estate or Interest therein.

The Court may order reasonable Expences of Purchase to be paid by the Trustees.

XII. Provided always, and be it further enacted, That where, by reason of any Disability or Incapacity of any Party entitled to any Lands, Tenements, or Hereditaments to be taken or used, or in respect of which any Satisfaction or Compensation shall be payable, under the Authority of this and the said recited Acts, the Purchase Money for the same, or the Money paid for such Compensation, shall be required to be paid into the Bank of *England*, it shall be lawful for the said Court of Exchequer to order the Costs, Charges, and Expences attending the Purchase or the taking or using of such Lands, Tenements, or Hereditaments, or which may be incurred in consequence thereof, and also the Costs, Charges, and Expences of the Reinvestment of the Purchase or Compensation Money in other Lands, Tenements, and Hereditaments, and likewise the Costs, Charges,

and Expences occasioned only by the passing of this Act, and not by Litigation between Claimants or otherwise, of any Proceedings had as by this and the said recited Acts authorized for the Investment of such Purchase or Compensation Money in Government or Real Securities, and for the Payment of the Interest and Dividends thereof, and of the Payment of such Government or Real Securities, or of the Money to be produced by the Sales thereof out of Court, or so much of such Costs, Charges, and Expences as the said Court shall think reasonable, together with the necessary Costs and Charges of obtaining the proper Orders for such Purposes, to be paid by the said Trustees out of the Monies to be received by virtue of this and the said recited Acts, and the said Trustees shall from Time to Time pay such Sums of Money for such Costs, Charges, and Expences as the said Court shall direct.

Power to sell Lands not required for the Purposes of the Trust.

XIII. And whereas the said Trustees are now and may be hereafter seised of or entitled to Buildings, Land, and Ground not required or necessary for the Purposes of the said recited Acts or this Act, and it is expedient that they the said Trustees should be invested with a Power to dispose of the same; be it therefore enacted, That the said Trustees may, at their Discretion, order any of the Hereditaments vested in them to be sold, and may authorize their Clerk to contract for the Sale of the same, and may direct their Treasurer to join with any Seven of their Number in executing a Conveyance to the Purchaser or Purchasers, who shall not be obliged to see to the Application of the Purchase Money, but shall be effectually discharged by the Receipt or Receipts of the said Treasurer from all Liability in respect of Monies therein mentioned to have been received.

Deed executed by certain Parties to pass all the Estate and Interest of the Trustees.

XIV. And be it further enacted, That any Deed of Conveyance to such Purchaser or Purchasers as aforesaid, duly executed by the said Treasurer and by Seven at least of the said Trustees, shall pass all the Estate and Interest of the said Trustees, and of all Persons interested in the said Hereditaments, as effectually as if such Deed were executed by all the said Trustees for the Time being; and that the Monies to be from Time to Time received upon any such Sale shall be applied to the Purposes of the said recited Acts and this Act.

Trustees not to prevent the flowing of certain Water into the River Tone.

XV. Provided always, and be it further enacted, That nothing herein contained shall authorize or empower the Trustees for the Time being, their Agents or Servants, to do any Act which may in anywise interfere with or prevent the flowing of the Waters now used for watering and cleansing the Streets and Sewers of the said Town, into the River *Tone*, at the respective Parts of the said River where the Streams of Water flowing through or near the said Town now communicate with and run into the said River.

When Debts paid off Restriction as to Sale of Articles in private Dwellings to cease.

XVI. Provided always, and be it further enacted, That when and so soon as all the Debts due and owing by the said Trustees, and the Principal and Interest of all Mortgages made and granted by the said Trustees, under the Authority of the said recited Acts and of this Act, any or either of them, shall have been paid off, nothing in

in the said recited Acts or either of them, or in this Act, contained, shall extend to prevent any Person from selling any Corn, Grain, Fish, Meat, Poultry, or other Provisions, or any Article, Matter, or Thing whatsoever, within his or her private Dwelling House or Shop within the said Town.

Interpretation of the Words "Town of Taunton."

XVII. And be it further enacted, That the Words "Town of *Taunton*," whenever employed or referred to in this Act as well as in the said recited Acts, shall for the Purposes of the same Acts be taken to include all the Streets, Lanes, public Roads, Passages, Houses, Buildings, Lands, and Places within the Boundaries at present fixed for ascertaining the Right of Persons to vote for the Election of Members to serve in Parliament for the Borough of *Taunton*.

Authorized Mode of Reference to the recited Acts and this Act.

XVIII. And be it further enacted, That in all legal or other Proceedings the Words following, (that is to say,) "the *Taunton* Town and Market Regulation Acts," shall be deemed a sufficient Description for the Purpose of Reference to this and the said recited Acts conjointly; and that the Words and Figures following, (that is to say,) "the *Taunton* Town and Market Supplemental Act of 1840," shall be a sufficient Description for the Purpose of Reference to this Act.

This Act to be deemed a Public Act.

XIX. And be it enacted, That this Act shall be deemed and taken to be a Public Act for all Purposes, and shall be judicially noticed as such by all Judges, Justices, and others.

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