

ANNO QUINQUAGESIMO QUINTO

GEORGII III. REGIS.

****

Cap. lxvi.

An Act for enabling the Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation to complete and extend their Works, and for better supplying the said Canal with Water; and also for vesting in Trustees for the said Company of Proprietors His Majesty's Right and Interest in certain Lands and Hereditaments in the Parishes of *King's Norton* and *Northfield* in the County of *Worcester*, forfeited to the Crown.

[7th *June* 1815.]

WHEREAS by an Act passed in the Thirty-first Year of the Reign of His present Majesty King *George* the Third, intituled *An Act for making and maintaining a navigable Canal from or* 31 G. 3. c. 59.
from near to the Town of Birmingham *in the County of* Warwick, *to communicate with the River* Severn, *near to the City of* Worcester, certain Persons therein named, and their respective Successors, Executors, Administrators, and Assigns, together with such Person or Persons as they should nominate and appoint under their Hands and Seals, were united into One Body Politic and Corporate, for carrying on, making, completing, and maintaining a Canal, navigable and passable for Boats, Barges, and other Vessels, from or from near the said Town of *Birmingham*, to join and communicate with the River *Severn* at *Diglis*, near to the City of *Wor-*

cester, by the Name of "The Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation;" and by that Name were to have perpetual Succession and a Common Seal, with Power and Authority to purchase Lands, to them and their Successors, for the Use of the said Navigation and Works thereby authorized to be made; and to erect and set up such Engines or other Machines for supplying the said Canal with Water, and to make such Bason or Basons, Reservoir or Reservoirs, Feeder or Feeders, Leader or Leaders, as to them should seem meet, provided the same were only made between the Entrance of the Parish of *Tardebig* and *Diglis* Meadow, necessary or proper for supplying the said Canal with Water from and out of the River *Severn* aforesaid, and working the Engines and other Machines to be erected and set up between the Places aforesaid; but the said Company are by the said Act restricted from making any Reservoir for the Supply of the said Canal on the Lands of any Person or Persons between the Town of *Birmingham* and the Entrance of the Parish of *Tardebig*; and the said Company are also restricted from taking or using for supplying the said Canal any Water from or out of (among other Places) *Bourne Brook*, and the Rivers *Salwarp*, *Rea*, and *Arrow*, any or either of them, or from or out of any Rivulet, Brook, Stream, or Watercourse which runs into *Bourne Brook* aforesaid, and the said Rivers *Salwarp*, *Rea*, and *Arrow*, any or either of them, or from or by means of which the said Rivers or Brooks called *Bourne Brook*, *Salwarp*, *Rea*, and *Arrow*, any or either of them, are or is supplied with Water, and from diverting, altering, or changing the Course of any such Rivulet, Brook, Stream, or Watercourse; and for the Security of the Owners and Occupiers of the Mills on the said River *Rea*, the said Company of Proprietors were thereby required, at their own Expence, immediately after the making of the said Canal over the River *Rea*, to make and complete Three Reservoirs, one of which was to be made on the Estate then of *Hankins* Widow, but now of *William Shorthouse*, in the Parish of *King's Norton* in the said County of *Worcester*, then in the Occupation of *John Green*, but now of *William Howes*, covering Twenty Acres of Land, and one other of such Reservoirs on the Estate therein described to be of the Honourable *William Williams Hewitt*, but now of *Thomas Dobbs*, then in the Occupation of the said *Thomas Dobbs*, near to a Place called *Lifford Mill* in the Parish of *King's Norton* aforesaid, covering Nine Acres of Land, with proper and sufficient Pipes to be laid into the said Reservoirs, and proper Leaders and Gutters from the said Reservoirs for conveying the Water for the Use of the said Mills; and the said Company were by the said Act authorized and empowered to raise and contribute amongst themselves, in such Proportion as to them should seem meet, such Sum or Sums of Money for making, completing, and maintaining the said Canal, the Reservoirs, Feeders, Ways, Quays, Wharfs, Landing Places, and other Works and Conveniences to the same belonging or requisite, as should be judged sufficient, not exceeding the Sum of One hundred and eighty thousand Pounds, to be divided into One thousand eight hundred Shares, at a Price not exceeding One hundred Pounds *per* Share; and if that Sum should be found insufficient for the Purposes, then the said Company of Proprietors were thereby authorized to raise and contribute amongst themselves, or by Mortgage of the said Undertaking in manner therein mentioned, any further Sum of Money for the Purposes of the said Act, not exceeding the Sum of Seventy thousand Pounds; and Commissioners were appointed by the said Act for putting the Powers thereby vested in

them into Execution: And whereas by another Act passed in the Thirty-eighth Year of the Reign of His said present Majesty, intituled *An Act for amending and enlarging the Powers of an Act passed in the Thirty-first Year of the Reign of His present Majesty, intituled 'An Act for making and maintaining a navigable Canal from or from near to the Town of* Birmingham *in the County of* Warwick, *to communicate with the River* Severn, *near to the City of* Worcester,' the said Company of Proprietors were authorized and empowered to raise Money, either by Subscription amongst themselves, or by the Admission of new Subscribers, or by Mortgage of the Rates authorized to be collected on the said Canal, or by granting Annuities with Benefit of Survivorship, or otherwise, any further Sum or Sums of Money, not exceeding in the whole the Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, to enable them to finish and complete the said Canal, and the several Works directed to be made, and to answer the other Purposes of the said first-mentioned Act; and in case the said Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny were raised by Subscription, the same was to be divided into Two thousand one hundred and fifty-nine Half Shares, each Half Share to be of the Value of Sixty-nine Pounds Eight Shillings and Ten-pence Halfpenny: And whereas by another Act passed in the Forty-fourth Year of the Reign of His said present Majesty, intituled *An Act for enabling the Company of Proprietors of the* Worcester *and* Birmingham *Canal Navigation to raise Money to discharge their Debts and to complete the said Canal Navigation, and for amending the several Acts passed for making the said Canal Navigation,* the said Company of Proprietors were thereby authorized to raise, pay, and contribute among themselves, proportionally and rateably, according to the Amount of the Sums of Money then already advanced by them, or which they were liable to pay in respect of their several Shares in the said Navigation, by or under the said first-recited Act, any Sum or Sums of Money, not exceeding in the whole the Sum of Forty-nine thousand six hundred and eighty Pounds, for the Purposes therein mentioned, being Twenty-seven Pounds Twelve Shillings on each Share, and no more; and it was made lawful for the said Company of Proprietors, at any General Assembly to be holden agreeably to the Direction of the said Act of the Thirty-first Year of the Reign of His present Majesty, or the now recited Act, or for their Committee for the Time being, to make any Call or Calls for Money from the Proprietor or Proprietors of a Share or Shares in the said Canal Navigation, in order to raise the said Sum of Forty-nine thousand six hundred and eighty Pounds, in the Manner and subject to the Regulations therein-after mentioned: And whereas by another Act passed in the Forty-eighth Year of the Reign of His said Majesty, intituled *An Act to amend and enlarge the Powers of the several Acts relating to the* Worcester *and* Birmingham *Canal Navigation,* reciting the said Three former Acts, and further reciting that the said Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation had not been able to raise, by virtue of the Powers of the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, any Sum or Sums whatsoever (save and except the Sum of Four thousand Pounds, which they had borrowed on Mortgage by virtue of the Powers of the said recited Act); and that the said Company had proceeded in making and completing a very considerable Part of the said Navigation and Works by the said Acts authorized, and had

38 G. 3. c. 33.

44 G. 3. c. 35.

48 G. 3. c. 49.

expended

expended therein not only the whole of the said Sums of One hundred and eighty thousand Pounds, Seventy thousand Pounds, and Forty-nine thousand six hundred and eighty Pounds, (save a small Part thereof which had not been paid by some of the Proprietors,) and also the said Sum raised by Mortgage, but had incurred sundry Debts in respect of the said Undertaking, as therein mentioned; and that the Powers then vested in them for raising Money were found insufficient; and that they had no other Means of raising the same without the Assistance of Parliament; and that the Powers and Provisions of the said recited Acts had in other respects been found insufficient and inconvenient; it was therefore enacted, and the said Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation were, by the now recited Act, authorized and empowered to raise any further Sum or Sums of Money, not exceeding in the whole the Sum of One hundred and sixty-eight thousand Pounds, over and above the therein-before mentioned Sums of Money, or so much thereof as the said Company had been or should be able to get in and receive, and notwithstanding the same Sums had not been wholly raised and received; such further Monies to be so raised, either by voluntary Subscription amongst themselves, or by the Admission of new Subscribers, or else by Mortgage of the Rates authorized to be collected on the said Canal, or by granting Annuities as therein mentioned; and in case the said Sum of One hundred and sixty-eight thousand Pounds should be raised by voluntary Subscription as aforesaid, the said Sum was to be divided into Four thousand two hundred additional Shares, each Share to be of the Value of Forty Pounds; and in case the said Sum of One hundred and sixty-eight thousand Pounds, by the now recited Act authorized to be raised as aforesaid, should be found insufficient for completing the said Canal and other the Purposes aforesaid, and the said Company of Proprietors should not be able to raise Monies for the said Purposes by Mortgage, or other the Means in the said recited Acts, or either of them, authorized and granted, then the said Company of Proprietors were, by the now recited Act, authorized and empowered to raise any such Sum or Sums of Money as should from Time to Time be found necessary for paying and discharging the Debts owing by the said Company of Proprietors, and such further Debts as they should contract in completing the said Canal, Reservoirs, Cuts, and Works, not exceeding in the whole the Sum of Forty thousand Pounds, over and above the afore-mentioned Sums of One hundred and sixty-eight thousand Pounds, or so much of the said several Sums of One hundred and eighty thousand Pounds, Seventy thousand Pounds, and Forty-nine thousand six hundred and eighty Pounds, as the said Company had been or should be able to get in and receive, and notwithstanding the said Sums had not been wholly raised and received as aforesaid; such Sum of Forty thousand Pounds to be raised by creating additional Shares in the said Undertaking, not exceeding One thousand Shares, and disposing of the same to such Person or Persons, and at such Price or Prices, not less than Forty Pounds a Share, as the said Company of Proprietors, or their Committee, should from Time to Time think expedient or necessary; and after stating that it having been found impracticable to raise any Sum or Sums of Money by creating additional Half Shares, by virtue of the Power given to the said Company of Proprietors by the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, the said Power for creating such Half Shares contained in the said Act was by the said now recited Act repealed:

pealed: And whereas the said Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation have, in pursuance of the said recited Acts, cut the whole Line of the said Canal from *Birmingham* to the River *Severn* at *Diglis*, near the City of *Worcester*, and made the said several Reservoirs for the Use of the Mills on the Rivers *Rea* and *Arrow*, and nearly completed the Works authorized to be made by the first-recited Act, and have expended therein, or in relation thereto, and for the Purposes of the said recited Acts, not only the said several Sums of One hundred and eighty thousand Pounds, Seventy thousand Pounds, and Forty-nine thousand six hundred and eighty Pounds, and also the said Sums of One hundred and sixty-eight thousand Pounds and Forty thousand Pounds, (save and except a small Part thereof, which, through the Insolvency, Inability, or Default of some of the Proprietors, has not yet been paid,) and the said Sum of Four thousand Pounds, raised by Mortgage under the Powers contained in the said recited Act of the Thirty-eighth Year of the Reign of His said present Majesty, but have also, in the Prosecution of the said Undertaking, incurred several Debts, to their Treasurers and others, amounting in the whole to the Sum of Thirty thousand nine hundred and thirty-six Pounds Seventeen Shillings and Eight-pence, over and beyond what is owing to the said Company which is likely to be recovered, and exclusive of certain unliquidated Claims for Damages upon the said Company: And whereas, in order to provide a sufficient Supply of Water for the Use of the said Canal, it is necessary that a Reservoir should be made at or near *Witchall*, in the Parishes of *King's Norton* and *Northfield*, or one of them, in the County of *Worcester*, for the Use of the said Canal; and it would also be desirable and advantageous to the said Canal, and no Injury to the Owners or Occupiers of Mills on the River *Rea*, if the present Reservoir made on the Estate late of *Hankins* Widow, but now of *William Shorthouse*, at *Witchall* in the Parish of *King's Norton* aforesaid, for the Use of the Mills on the River *Rea*, were enlarged and appropriated to the exclusive Use of the said Canal, and another Reservoir made instead thereof on Lands belonging to the said *William Shorthouse* near to *Witchall* aforesaid, for the Use of the Mills on the River *Rea*; and it would also be a great public Convenience, and beneficial to the Mills on the said River *Rea*, if the Flood, Waste, and Surplus Water of the River *Rea* (which frequently obstructs the free working of the said Mills) were, after filling the said Reservoir so proposed to be made at or near *Witchall* aforesaid, for the Use of the said Mills on the said River *Rea*, diverted into the said Reservoirs, for the Use and Supply of the said Canal: And whereas the constructing of such Reservoirs, and other Works, now necessary to be done in order to render the said Canal serviceable to the Public, will require the further Sum of Thirty-seven thousand five hundred and nine Pounds, and the said Company of Proprietors have Occasion to raise, over and above the said Sums of One hundred and eighty thousand Pounds, Seventy thousand Pounds, Forty-nine thousand six hundred and eighty Pounds, One hundred and sixty-eight thousand Pounds, Forty thousand Pounds, and Four thousand Pounds, a further considerable Sum of Money, for the Purpose of discharging the said Debts and completing the said Canal and Works: And whereas the said Company of Proprietors are desirous, at their own Expence, to make such new Reservoirs, and to enlarge the present Reservoir at *Witchall*, and also to make proper Trenches, Sluices, Feeders, and Aqueducts, to and from the same, and all necessary Weirs, Floodgates, and Works, for the Purposes aforesaid, and to supply the same with Water for the Use of the said Canal and the Mills on the River *Rea* respectively,

spectively, in such Manner and under such Regulations as herein-after mentioned: And whereas several of the Powers and Provisions of the said recited Acts have in other respects been found insufficient and inconvenient, and require to be amended and extended: And whereas the several Monies still wanting as aforesaid cannot be raised, nor can the several other before-mentioned Purposes be effected, without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King'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 said Company of Proprietors, their Successors and Assigns, shall be and they are hereby authorized and empowered, if they shall think proper, from and after the passing of this Act, at their own Costs and Charges, within the Time limited by this Act, but not afterwards, and subject to the Conditions and Restrictions in this Act contained, to make and complete One Reservoir for Water for the Use and Supply of the said Canal on the Estates of *Matthias Attwood* Esquire, the Trustees of the Will of the late *Thomas Clarke Jervoise* Esquire, deceased, *John Soley* Esquire, *George Withers*, the Glebe Land of *Northfield* Church, *Matthew Groves*, and the said Company of Proprietors respectively, situate in the Parishes of *King's Norton* and *Northfield* in the County of *Worcester*, in the respective Occupations of the said *Matthias Attwood*, *Thomas Pritchett*, *Thomas Withers*, *George Withers*, *Joseph Whitehouse*, the Reverend *John Thomas Fenwick* Clerk, *Austin Greaves*, *Avery* Widow, and *James Bissell*, particularly described in the Schedule to this Act annexed, or any suitable Part of the Lands so described, if not prohibited by this Act, so as to cover Sixty-five Acres of Land, or thereabouts; and also to enlarge and extend the present Reservoir at *Witchall*, on the South Side thereof, over any Quantity of the Land there belonging to the said *William Shorthouse*, not exceeding Two Acres, and further by raising the Banks thereof in such Manner and of such Strength as shall be necessary for pounding up the Water in the said Reservoir to any Height, not exceeding the Topwater Level of the Reservoir so to be made in the Parishes of *King's Norton* and *Northfield* for the Use of the said Canal, and at all Times thereafter to support and maintain the same when so enlarged, and to appropriate the same exclusively to the Use and Supply of the said *Worcester* and *Birmingham* Canal with Water; and for that Purpose to purchase, enter upon, and take such Part of the Lands of the said *William Shorthouse*, in the Possession of *William Howes*, in the Parish of *King's Norton* aforesaid, near to the said last-mentioned Reservoir, as shall be necessary; and in lieu and instead of the last-mentioned Reservoir to make, and at all Times thereafter to support and maintain, at the Expence of the said Company, another Reservoir for the Use of the Mills on the River *Rea* below *Northfield* Mill, on the North Side of the present *Witchall* Reservoir, into and upon the Lands of the said *William Shorthouse*, in the Possession of the said *William Howes*, in the said Parish of *King's Norton*, and if necessary so as to include a Part of the present *Witchall* Reservoir; and for the Purpose of making the said last-mentioned Reservoir to purchase, enter upon, and take such Lands of the said *William Shorthouse* as shall be necessary, not exceeding Sixteen Acres and a Half, and to supply such Reservoirs so to be made and extended respectively as aforesaid for the Use of the said Canal and each of them, when so made and extended, and at all Times thereafter, with Flood, Waste, and Surplus Water of the River *Rea*, as herein-after mentioned; and to make or cause to be made

Company empowered to make Reservoirs near Witchall for the Use of the Canal.

proper and sufficient Pipes and Tunnels, to be laid into and continued in the said Two last-mentioned Reservoirs, and also proper Feeders, Leaders, and Gutters into and from the same, and also proper Weirs, Flood-gates, Sluices, or Valves into or upon the same, for the Purpose of conveying Flood, Waste, and Surplus Water of the River *Rea*, over and beyond what shall be necessary for the Use and Supply of the Mills on the River *Rea* below *Northfield* Mill, and for filling from Time to Time the Reservoir so to be made at or near *Witchall* as aforesaid, for the Use of the Mills with Water, as herein-after mentioned; and also to alter and divert the Course of the River *Rea* below and near to *Northfield* Mill in the said Parish of *Northfield*, and to conduct and convey the Water of the said River, in as direct a Line as may be, from or from near the Place where the Back or Waste and Working or Tail Water of *Northfield* Mill unite, upon a regular Decline or Fall of Six Feet, to the West or Tail End of the said Reservoir so to be made for the Use of the said Canal, and from thence along by the Northern Side of the said Reservoirs to the North End of the Head or Dam of the said Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid, and thence by Means of a Sluice or Flood-gate by the Eastern Side of the Head of the said last-mentioned Reservoir into *Witchall* Mill Pool, and from thence into the ancient Course of the said River again, and to take and convey the Flood, Waste, and Surplus Water, beyond what shall be necessary for filling from Time to Time the said last-mentioned Reservoir and *Witchall* Mill Pool, from and out of the said River *Rea*, for the Use of the said Canal, and for filling and supplying the said Canal Reservoirs with Water.

The Mode of cutting and making the new Course of the River Rea.

II. And for the Security of the said Mills on the River *Rea*, be it further enacted, That the said new Course of the River *Rea* shall, from the Western or Tail End of the said Reservoir so to be made for the Use of the said Canal to the Northern End of the Head or Dam of the said Reservoir so to be made for the Use of the Mills on the River *Rea*, be cut and made Six Feet deep below the Topwater Level of the Reservoir so to be made for the Use of the Canal, and Twelve Feet wide at the Bottom throughout, and the Sides or Banks thereof made upon a Slope of Five Feet horizontal to Three Feet perpendicular, or of such other Width and Depth and in such other Manner as Two competent and indifferent Engineers, or their Umpire, to be appointed as herein-after mentioned, shall direct and approve; and that the said Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid shall be so constructed as, together with such Part of the new Course of the said River as shall lie East of the Place where the Back or Waste and Working or Tail Water of *Northfield* Mill unite, shall be equal in cubical Capacity to the present *Witchall* Reservoir, and to so much of the present Fleam or Pound of *Witchall* Mill as shall be severed by the Head of the said last-mentioned Reservoir, and to the Quantity of Water which shall be ascertained as herein-after mentioned to issue from the Springs in the Surface Lands of the present *Witchall* Reservoir, and in the Surface Lands of the said Reservoir so to be made for the Use of the said Canal, between the Beginning of the Month of *March* and the latter End of the Month of *November*, on an Average Calculation of the Four Years next before the said Reservoirs for the Use of the said Canal, or either of them, shall be begun to be made or enlarged as aforesaid.

The Mode of making the Reservoir for the Use of the Mills.

The Mode of filling the Mills Reservoir;

III. And be it further enacted, That for filling from Time to Time the Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid

aforesaid with Water from and out of the said River *Rea*, a Weir Fifty Feet long, the Top or Sill of which shall be coped with Iron, and be made, with proper Side and Wing Walls, in the Bank between the said Reservoir and the said new Course of the River *Rea*, as near as conveniently may be to the East Side of the Bridge or Road leading from *Northfield* by *Middleton* Hall to *Witchall* Farm House, and that the Top of the Coping or Sill of the said Weir shall be placed as near as may be to the Level of Three Feet and Three Inches below the present Sheeting of *Northfield* Mill Tail; which Weir shall be divided into Six equal Parts or Divisions by Oak Stable Posts, of Ten Inches thick by Nine Inches broad, fixed on the said Weir, and carried Three Feet in the clear above the Top of the Sill of such Weir, and so as to receive Oak Flaps on the Face of the said Weir and Stable Posts, so and in such Manner as that when the Water in the new Course of the River *Rea* shall be higher than the said Weir and the Water in the said Reservoir, the said Flaps shall open and admit the Water to flow out of the said new Course of the River *Rea* over the said Weir into the said Reservoir, and that when the Water in the said new Course of the said River *Rea* shall sink below the Top of the said Weir and the Surface Level of the Water in the said Reservoir, the said Flaps shall shut to and prevent the Water from escaping out of the said Reservoir into the new Course of the said River *Rea*; and which said Flaps shall be made of at least Two Inch Oak Planks, properly ledged, and so fixed as to work upon Pivots placed in the said Stable Posts Two Feet Six Inches above the Top of the Sill of the said Weir; and that a sufficient Iron Grating shall be placed in the Front or Back of the said Weir, so as to preserve the Fish in the said Reservoir.

and of drawing off the Water for fishing the same.

IV. And be it further enacted, That the Water of the said Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid, in lieu of the present *Witchall* Reservoir, shall be drawn off for the Purpose of fishing the same Reservoir at such Times only as is directed by the said first-recited Act with respect to the Water of the present Reservoir at *Witchall*.

The Mode of ascertaining and measuring the Springs in the Surface Lands of the Canal Reservoir.

V. And be it further enacted, That in order to ascertain what Springs exist in the Surface Lands of the present *Witchall* Reservoir, and in the Surface Lands of the said Reservoir, so intended to be made for the Use of the said Canal, and what Quantity of Water issues therefrom between the Beginning of the Month of *March* and the latter End of the Month of *November* yearly, on an Average Computation of Four Years as aforesaid, Two competent and indifferent Civil Engineers shall be appointed as Referees, to examine and measure the same Springs and Water issuing therefrom as aforesaid, some Time in the Months of *August*, *September*, or *October*, of some One Year before the said Reservoirs so to be made and extended respectively as aforesaid for the Use of the said Canal shall be begun to be made, and by a Comparison of the Water which shall be so found to issue from such Springs with the Rain Gauges for the Four Years next before such Examination and Admeasurement as aforesaid to draw their Inference; one of such Engineers to be appointed by and on the Part of the said Company, and the other on the Part of the Owners and Occupiers of the Mills for the Time being on the River *Rea* below *Northfield* Mill; such last-mentioned Appointment to be made by the Owners and Occupiers of the said Mills, or the major Part of them for the Time being, assembled in Person or by Proxy at a Meeting to be convened by Notice in Two or more of the *Birmingham* Newspapers for the Time being,

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Seven Days at least before the Time appointed for such Meeting, stating the Purpose for which such Meeting is to be held; and in case such Two Engineers cannot agree as to the Matters to be to them referred, the same shall then be determined by a Third indifferent Engineer, to be appointed by the Two first-named Referees as Umpire, before they the said Two first-named Referees shall proceed to act in the said Reference, otherwise than by the Appointment of such Umpire; and the Award or Umpirage of such Referees or Umpire, as the Case may be, shall be made in Writing under their or his Hands or Hand, and shall be final and conclusive upon all Person or Persons, Body or Bodies Politic, Corporate, and Collegiate, interested or to become interested in the Subject Matters of such Reference, any Statute of Mortmain, Law, Custom, Matter, or Thing to the contrary notwithstanding.

If either Party refuse to appoint an Arbitrator on Notice so to do, the Party giving such Notice may appoint one.

VI. Provided always nevertheless, That in case the said Company of Proprietors shall neglect or refuse to appoint such Referee on their Part as aforesaid for the Space of Twenty-one Days after being required so to do by Notice in Writing from the said Owners and Occupiers of the Mills on the River *Rea*, (from *Witchall* Mill to *Saltley* Mill all inclusive,) or any One or more of them, for the Time being; or in case the said Owners and Occupiers of the Mills on the River *Rea* as last aforesaid for the Time being, or the major Part of them, to be assembled as aforesaid, shall neglect or refuse to appoint such Referee on their Part as aforesaid, for the Space of Twenty-one Days next after being required so to do by Notice in Writing from and signed by the Clerk to the said Company for the Time being, served upon them, or any One or more of them, for that Purpose; that then and in either of those Cases the Referee of the Party so giving such Notice shall and may proceed *ex parte* in the said Reference; and his Award in Writing under his Hand, touching the Matters to be referred to him as aforesaid, or any of them, shall be as good and valid, and as binding and conclusive on all Parties concerned or interested therein, to all Intents and Purposes, as if such Award had been made by such Two Referees appointed by the said Parties as aforesaid, or their Umpire.

Level of the Reservoir on the Rea.

VII. And be it further enacted, That the said Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid shall be so constructed that the Topwater Level of the said Reservoir shall be as near Fifteen Inches as may be below the present Sheeting of *Northfield* Mill.

Mode of constructing Bank between the new Course of the River Rea and the Canal and Mill Reservoirs.

VIII. And be it further enacted, That a Bank shall be made and maintained from or from near the North End of the Head or Dam of the said Reservoir so to be made for the Use of the Mills on the River *Rea* as aforesaid, along by the South Side of the said new Course of the said River *Rea*, and continued upon a Curve across the Valley, by the Tail or Western End of the said Reservoir so to be made for the Use of the said Canal, at the Place where the low Lands are Two Feet, or thereabouts, below the Topwater Level of the said Reservoir, to the Place where the Topwater Level of the said Reservoir meets the surface Ground on the South Side of the said Valley, and from thence along by the South Side of the last-mentioned Reservoir to the Head or Dam thereof, near to *Witchall* Farm House; and which said Bank shall be made at least Two Feet above the Regulating Weir or Topwater Level of the said Reservoir so to be made for the Use of the Canal as aforesaid, and Six Feet wide at

the Top, with Slopes at least Two Feet horizontal to One Foot perpendicular; and that a Puddle Wall, Four Feet wide at the Bottom and Three Feet wide at the Top, shall be carried throughout the said Bank, and founded on a retentive Soil.

A Catchwater Drain to be made to convey the Water of the River Rea for the Use of the Mills.

IX. And be it further enacted, That a Catchwater Drain shall be made of sufficient Capacity, from near the South End of the Head or Dam of the said Reservoir so to be made for the Use of the said Canal, along by the South Side of the Bank to be made on the South Side of the last-mentioned Reservoir as aforesaid, and across the Valley at the Tail or Western End of the said Reservoir, by the West Side of the curved Bank to be there made as aforesaid, into the new Course of the said River *Rea*; which said Catchwater Drain, or the Bed thereof, shall be begun to be made near to the South End of the Head or Dam of the last-mentioned Reservoir, One Foot below the Topwater Level of the said Reservoir, and be continued on a regular Decline or Fall of Five Feet to and into the Bottom or Bed of the said new Course of the River *Rea*, so as to convey, in the first Instance, the Streams and Drainage Water from the Lands on the South Side of the said Catchwater Drain into the said new Course of the River *Rea* for the Use of the Mills.

Weirs to be placed on the Northern Bank of the Canal, Reservoir, &c.

X. And be it further enacted, That One or more permanent or self-acting Weirs, coped with Iron or Stone, shall be placed and all Times thereafter continued on the Northern Bank of the said Reservoir so to be made for the Use of the said Canal, on a Level, as near as may be, to Fifteen Inches below the present Sheeting of *Northfield* Mill Tail, in such Situation or Situations as any Two indifferent Engineers or their Umpire, to be appointed as herein-after mentioned, shall direct, so as no such Weir be placed within the Distance of One thousand one hundred Yards from the Tail of the said Reservoir so to be made for the Use of the said Canal; and that the Southern Bank and Eastern or Head Bank of the said Reservoir so to be made for the Use of the Mills on the River *Rea* shall be made at least Four Feet above the Topwater Level of the said Reservoir, and be made Ten Feet wide at the Top, and upon a Slope of at least Two Feet horizontal to One Foot perpendicular; and that a Puddle Wall, Six Feet wide at the Bottom and Four Feet wide at the Top, shall be carried throughout the said Two last-mentioned Banks, and founded on a retentive Soil, to the Satisfaction of some Two indifferent Engineers or their Umpire, to be appointed as herein mentioned; and also that a Pipe and Sluice Cock shall be placed and at all Times thereafter continued in the lower Part of the said Reservoir so to be made for the Use of the said Mills on the River *Rea*, for the Purpose of drawing off the Water therefrom for fishing the same, at such Times and under such Restrictions as are mentioned or referred to in this Act; and also that a close Weir, with an Aperture Four Feet wide and Two Inches deep, made of Cast Iron, shall be placed in the Head or Dam of the said Reservoir so to be made for the Use of the Mills on the River *Rea*, and as near as may be practicable to the North End thereof, the Bottom of which Aperture shall be upon a Level of One Inch below the Top of the feeding Weir of the Reservoir hereinbefore directed to be made for the Use of the said Canal.

Iron Pipes and a Sluice Cock to be

XI. And be it further enacted, That Iron Pipes, and a Sluice Cock or Flood Gates, shall be fixed and continued in the Head of the said Reservoir

so to be made at *Witchall* for the Use of the Mills on the River *Rea*, in such Situation as Two competent indifferent Engineers or their Umpire, to be appointed as herein mentioned, shall determine, for the Purpose of drawing off the Water from the said Reservoir for the Use of the Mills below on the River *Rea*, but so as to leave as much Water in the said Reservoir for the Preservation of the Fish as would be left in the present *Witchall* Reservoir for preserving the Fish therein, in case the present *Witchall* Reservoir were now drawn off to the Sill of the present Flood Gate in the Northern Bank of the said last-mentioned Reservoir communicating with the Fleam of *Witchall* Mill.

placed in the Mills Reservoir, &c.

XII. And in order to prevent any Waste of Water from the Reservoir at *Witchall* so to be made for the Use of the Mills on the River *Rea* as aforesaid, and for the Security of the said Company of Proprietors, be it further enacted, That no Water shall be drawn off at any Time from the said last-mentioned Reservoir, except what shall be drawn off for the Use of the said Mills on the said River, or when the said last-mentioned Reservoir, and the said Reservoirs so to be made and extended respectively as aforesaid for the Use of the said Canal, shall be overcharged with Water, and it shall be necessary, for the Security and Safety of the Banks thereof, or of some or one of them.

To prevent Waste of Water in the Mills Reservoir.

XIII. And be it further enacted, That the Fishery of the present Reservoir at *Witchall*, after the same shall be enlarged and extended and appropriated to the Use of the said Canal as aforesaid, and the Fishery of the said Reservoir so to be made for supplying with Water the Mills on the River *Rea*, in lieu of the last-mentioned Reservoir, and also the Fishery of the Reservoir so to be made at or near *Witchall* aforesaid for supplying the said Canal with Water, shall be and the same is hereby declared to be the Right and Property of the Owner or Owners of the Lands on or over which the said Reservoirs respectively shall be made or extended; and it shall not be lawful for the said Company or any Person or Persons to catch, take, or destroy any Fish in either of the said Reservoirs, without the Consent of the Owner or Owners of such Lands as aforesaid.

To whom Fishery of the Canal, &c. shall belong.

XIV. And be it further enacted, That the said Company of Proprietors shall at all Times hereafter leave as much Water in the present *Witchall* Reservoir, after the same shall be so enlarged and appropriated or taken for the Use of the Canal as aforesaid, for the Preservation of the Fish in such Reservoir, as would be now left in the same Reservoir in case the Water were now drawn off from the said Reservoir to the Sill of the present Floodgate in the Northern Bank of the said Reservoir communicating with the Fleam of *Witchall* Mill, except only when it shall be necessary entirely to draw off the Water therefrom, for the Purpose of cleansing or repairing the same Reservoir, or any Part thereof.

Water to be left in Witchall Reservoir for Preservation of the Fish.

XV. Provided always, and be it further enacted, That no Water shall be drawn off from either of the said Reservoirs so to be made and extended respectively as aforesaid for the Use of the said Canal, for the Purpose of fishing the same or either of them, without the Consent in Writing of the said Company of Proprietors under their Common Seal, or of the Committee for the Time being of the said Company, or any Five or more of them, signified in Writing under their respective

No Water to be drawn from the Canal Reservoirs for fishing the same, without Consent of the Company, &c.

spective Hands, except once in every Seven Years, and then in the Month of *November* or *December*.

No Use to be made of the present Witchall Reservoir or of the River Rea, till the new Reservoir be made.

XVI. Provided always, and it is hereby enacted and declared, That it shall not be lawful for the said Company to make use of the present Reservoir at *Witchall*, or any of the Water therein, or to alter or enlarge such Reservoir, or to deprive the Mills on the River *Rea* of the Use and Benefit thereof, or to divert, take, or use, for the Purposes of the said Canal, any Water usually running into the same River or Reservoir, until the Reservoir by this Act directed to be made for the Use of the said Mills on the River *Rea*, in lieu thereof, shall be made and completed for the Use of the said Mills, and until the Pipes, Sluices, Cocks, Flood Gates, Feeders, Leaders, Gutters, and Weirs to the same, and the new Course for the River *Rea*, shall have been made and completed in the Manner directed by this Act; any thing in this Act contained to the contrary thereof in anywise notwithstanding.

Two Copies of Maps, &c. to be certified by the Speaker of the House of Commons, and one lodged with the Clerk of the Peace.

XVII. And whereas the said Company of Proprietors are desirous to enlarge and extend the present Reservoir at *Witchall*, for the Use of the said Canal, upon and over Part of the Lands only described for that Purpose in the Plans which have been deposited by the said Company in the Office of the Clerk of the Peace for the County of *Worcester*, and in the Private Bill Office of the House of Commons, and to make the said Reservoir so intended in lieu thereof for the Use of the Mills on the River *Rea* as aforesaid, on Part of the Lands described in such Plans as intended to be taken for extending the present *Witchall* Reservoir: And whereas a Map or Plan and Sections of the said intended Reservoirs and Aqueducts, as the same are now respectively intended to be made or enlarged and extended for the Use of the said Canal and the Mills on the River *Rea* respectively as last aforesaid, and of the several Lands in or through which the same are respectively intended to be made, carried, or enlarged, and a Book of Reference thereto, have been made by *Netlam Giles*, an impartial and skilful Surveyor, and lodged in the Private Bill Office of the House of Commons; be it therefore enacted and declared, That there shall be Two Parts made of the said last-mentioned Map or Plan and Sections and Book of Reference, which shall be certified by the Right Honourable the Speaker of the House of Commons, and severally deposited with and kept by the Clerk of the Peace for the said County of *Worcester* and the Clerk to the said Company of Proprietors for the Time being, which all Persons at seasonable Times shall have Liberty to inspect and take Copies of or Extracts from as Occasion shall require; and the said last-mentioned Map or Plan and Sections and Book of Reference, so certified, or true Copies thereof, shall be and the same are hereby declared to be good Evidence in all Courts of Law and Equity or elsewhere; and the Clerk for the Time being to the said Company of Proprietors, or in the Event of any Destruction, Loss, or Misfortune, then the Clerk of the Peace for the said County of *Worcester*, upon Six Days Notice in Writing to him given for that Pupose, shall from Time to Time produce the said Map or Plan and Sections and Book of Reference in his Custody, before the said Commissioners, or any Jury or Juries to be impannelled by virtue of the said recited Acts or this Act, or any or either of them, at the Time and Place to be mentioned in such Notice, in order to the same being then and there given in Evidence: Provided always, that the Clerk to the said Company or the Clerk of the Peace aforesaid

aforesaid for the Time being, so required to produce, and producing or attending to produce in Evidence such Map or Plan and Sections and Book of Reference in his Custody, shall be paid by the Person or Persons, or Body or Bodies Politic or Corporate, by or on whose Behalf such Notice as aforesaid shall be given, a reasonable Sum for his Time, Trouble, and Expences for every Day he shall be absent from his Home or in attendance in producing or for the Purpose of producing such Map or Plan and Sections and Book of Reference, or any or either of them, in Evidence as aforesaid.

31 G. 3. as to the Manner in which the Water from the Mills Reservoirs is to be drawn off, recited.

XVIII. And whereas by the said first-recited Act it is enacted, amongst other Things, that the Water in the said Three Reservoirs in the Parishes of *King's Norton*, *Northfield*, and *Harbourne*, should from Time to Time be conveyed into the said River *Rea*, for the Use and Supply of the Mills on the River *Rea*, at such Times and in such Quantities and Manner as the major Part in Number of the Occupiers of the Mills on the said River *Rea*, (beginning at Messieurs *Lloyd*'s Slitting Mill at *Birmingham* to *Witchall* Mill and to *Harbourne* Mill, all inclusive,) attending either in Person or by Proxy at any Meeting to be holden pursuant to Notice to be given for that Purpose as therein directed, should from Time to Time direct or appoint: And whereas it is expedient and necessary that so much of the said first-recited Act as relates to the said Reservoir by the said recited Act directed to be made on the Lands therein described to belong to *Hankins* Widow should, from and after the said Reservoir so intended and hereby directed to be made for the Use of the Mills on the River *Rea* in lieu of the said last-mentioned Reservoir and the Works to the same should be made and completed as aforesaid, be repealed; be it therefore enacted, That so much of the said first-recited Act as is above recited, so far as respects the said Reservoir so therein directed to be made on the Lands of the said *Hankins* Widow as aforesaid, shall, from and after the said Reservoir shall be made in lieu thereof for the Use of the Mills on the River *Rea* as herein-before directed, be and the same is hereby declared to be thenceforth repealed.

For drawing off the Water from the Reservoir to be made in lieu of Witchall Reservoir.

XIX. And be it further enacted, That the Water of the said Reservoir so to be made for the Use of the Mills on the River *Rea* in lieu of the present *Witchall* Reservoir shall from Time to Time be drawn off and conveyed into the said River *Rea*, for the Use and Supply of the said Mills, at such Times and in such Quantities and Manner as the major Part in Number of the Occupiers of the Mills on the said River, (from *Saltley* Mill to *Witchall* Mill, all inclusive,) attending either in Person or by Proxy at any Meeting to be holden pursuant to Notice to be given for that Purpose, shall from Time to Time direct or appoint.

William Shorthouse to be at liberty to plant Oziers on the Banks of the present and new Mills Reservoirs.

XX. Provided always, and it is hereby further enacted and declared, That it shall be lawful for the said *William Shorthouse*, his Heirs and Assigns, from Time to Time and at all Times hereafter, to have the exclusive Right of planting with Oziers the Banks of the present *Witchall* Reservoir, and of the new Reservoir to be made for the Use of the said Mills, and by himself, his Servants and Workmen, to enter and come upon such Banks for the Purpose of cultivating, cutting, cropping, lopping, topping, and carrying away such Oziers for his sole Use, as often as he or they may think proper, without paying any Consideration for the Use of or Benefit to be

derived from such Banks: Provided always, that the said *William Shorthouse* shall not plant or make use of the said Banks in any Manner so as to damage or injure the same for the Purposes of the said Canal: Provided always, that nothing herein contained shall extend or be construed to extend to hinder or prevent the said Company of Proprietors from using, amending, and repairing the said Banks from Time to Time, as shall be necessary for the Purposes of the said Canal, or for the Support and Preservation of the said Reservoirs and Banks respectively.

The Company, in making the Reservoirs, not to deviate from the Plans, except to a certain Extent.

XXI. And be it further enacted, That the said Company, in making the said intended Reservoirs, and enlarging the present Reservoir at *Witchall*, and the Trenches, Feeders, and other Works by this Act authorized and directed to be made, shall not deviate from the Course or Direction in the said Map or Plan (except to the Extent herein-after mentioned): Provided always, that it shall be lawful for the said Company of Proprietors, if they shall find it expedient, (except in those Cases where they are expressly prohibited by this Act from so doing,) with the Consent in Writing of the said Commissioners, or any Five or more of them, and without any further Authority, in making, extending, or completing the said Reservoirs or any of them, to deviate from the Lines and Directions marked out for that Purpose in the said Map or Plan, or any of them, for any Space or Distance not exceeding One hundred Yards in any one Direction; and that such Deviation or Deviations shall be deemed and considered to all Intents and Purposes, both of Validity, making Compensation, and otherwise, to be Part of the original Directions and Limits authorized by this Act; so nevertheless that within Twelve Calendar Months next after such Deviation or Deviations, a Supplementary Map or Plan or Maps or Plans thereof, with suitable References, be made and signed by some skilful and impartial Surveyor, and be verified on Oath before some one or more of His Majesty's Justices of the Peace for the County of *Worcester*, (which Oath any Justice or Justices of the Peace for the County of *Worcester* is and are hereby empowered to administer,) and be deposited with the said Clerk of the Peace for the said County of *Worcester*; which Supplementary Document or Documents shall be kept and preserved, and be accessible and producible, and the same or attested Copies thereof respectively be deemed Evidence, and have the same Effect in every other respect as the said certified Copies of the original Map or Plan so lodged in the Private Bill Office of the House of Commons.

Not to deviate from the Plan as far as respects the Lands of Mr. Shorthouse.

XXII. Provided always, and be it further enacted, That it shall not be lawful for the said Company, for any of the Purposes of the said recited Acts or this Act, to take any other or greater Quantity of the Lands belonging to the said *William Shorthouse*, or to make or form any Reservoir or other Works in any other Direction on any other Parts of his Estate or Lands than those which are particularly appropriated, mentioned, and described in this Act, without the Consent in Writing of the said *William Shorthouse*, his Heirs or Assigns, for that Purpose first had and obtained; any thing herein contained to the contrary thereof in anywise notwithstanding.

The Company not to take any of William

XXIII. Provided always, and be it further enacted, That it shall not be lawful for the said Company, or any of their Servants, Agents, or Workmen, to enter upon, take, or use any Lands for the Purposes of the said recited

recited Acts or this Act, now belonging to or being the Property of the said *William Shorthouse*, after the Expiration of Three Years next after the passing of this Act, unless the said Company shall have previously paid to the said *William Shorthouse*, or other the Person or Persons entitled thereto, the Sum of Money agreed to be paid by the said Company for such Lands respectively, and shall have performed and fulfilled the Terms, Stipulations, and Conditions in this Act contained relating to the Lands of the said *William Shorthouse* to be taken for the Purposes of the said Canal; any thing in this Act contained to the contrary notwithstanding.

Shorthouse's Lands, unless taken within Three Years after the passing of this Act.

XXIV. Provided always, and be it further enacted, That it shall be lawful for the said Company of Proprietors, if they shall think proper, instead of making, extending, and enlarging the said Reservoirs for the Use of the said Canal and Mills respectively as aforesaid, to divert and conduct the Flood Water of the River *Rea*, (over and beyond what shall be necessary for filling from Time to Time the present *Witchall* Reservoir, and for the Use of *Witchall* Mill and the several other Mills on the River *Rea* below *Witchall* Mill,) for the Use and Supply of the said Canal, and to make, construct, and erect any Weir or Weirs, Gauge or Gauges, and to cut and make such Leader or Leaders, Feeder or Feeders, and other Works as shall be necessary for that Purpose; provided the same Weirs, Gauges, Leaders, Feeders, and other Works respectively be constructed and erected in such Manner as shall be approved of by Writing under the Hand of the said *William Shorthouse*, and under the Hands of a Majority of the Owners and Occupiers of Mills on the River *Rea*, from *Witchall* Mill to *Saltley* Mill inclusive, present in Person or by Proxy at a Meeting to be called for that Purpose by Notice to be inserted Three Times successively in the *London Gazette*, and in Two and the same *Birmingham* Newspapers, previously to such Meeting being held, stating the Purpose for which such Meeting is to be held, and signed by the Clerk for the Time being to the said Company; provided the Consent of the Owners and Occupiers of the Lands respectively in or through which such Weirs, Feeders, Leaders, and other Works respectively as last aforesaid shall be made, be first had and obtained in Writing under their respective Hands for that Purpose.

Company empowered, with Consent of Land and Mill Owners, to take the Flood Water by means of Weirs, without making the said Reservoirs.

XXV. And be it further enacted, That before the said Company of Proprietors shall enter upon or take or use any Lands belonging to the said *William Shorthouse*, at the Time of passing of this Act, for the Purposes of this Act, or divert or use any Water in or to which he is interested or entitled, the said Company shall first offer for Sale to the said *William Shorthouse*, his Heirs or Assigns, and shall grant and convey, (if the said *William Shorthouse*, his Heirs or Assigns, shall agree to purchase the same,) at a Price to be fixed or ascertained in the Manner herein mentioned, such Parts of the Lands purchased for the Use of the said Company from *Thomas Hooper*, situate in the Parish of *King's Norton*, as are called or known by the Names of the *Studs*, *Long Close*, *Harvest Field*, and *Ten Acres*, or such other Part of the said Lands, not exceeding Forty-six Acres in the whole, adjoining to the Lands of the said *William Shorthouse*, being Part of the Lands forfeited to His Majesty, and which Forfeiture His Majesty is graciously pleased to remit; and also a Right of Road for Foot Passengers, Horses, and Carriages through the Lands called the *Mill Grounds*, belonging to the said Company, at such Price or Value as shall be

Before the Company take any of William Shorthouse's Lands, they are to make him an Offer of Sale of Part of their Lands.

be fixed thereon by the said Company; and in case the said *William Shorthouse* shall refuse or decline to purchase such Lands as aforesaid at that Price, then the Price or Value thereof shall be ascertained by a Jury, to be summoned in like Manner as is directed by the said first-recited Act in order to ascertain the Value of Lands to be used for the Purposes of such Act; and if the said *William Shorthouse* shall agree to purchase such Lands at the Price or Value to be fixed upon the same by the said Company of Proprietors or by a Jury as aforesaid, then the same shall be conveyed to him by the said Company, in the same Manner as any Lands to be sold by the said Company are directed to be conveyed; but in case such Jury shall value the same Lands at the same or a higher Price than may have been fixed thereon by the said Company, and the said *William Shorthouse* shall refuse to purchase the same at the Price to be fixed thereon by a Jury as aforesaid, it shall be lawful for the said Company to sell the same Lands to any other Person or Persons, and to proceed in the Execution of this Act in like Manner as they might have done if such Lands had been purchased by and conveyed to the said *William Shorthouse*, or if such Offer thereof had not been required to be made to him by this Act.

If the Price fixed by the Jury shall amount to the Price fixed by the Company, William Shorthouse to pay Costs; otherwise the Company.

XXVI. Provided always, and be it further enacted, That if the Price or Value to be fixed on such Lands by such Jury shall amount to or exceed the Value to be fixed thereon by the said Company, in that Case the said *William Shorthouse* shall pay the whole Costs and Expences, as well on the Part of the said Company of Proprietors as on his own Part, in and about or touching the calling out such Jury, or in or relating to the Inquiry of or Investigation before them as aforesaid; but if the Price or Value of such Lands shall be declared by such Jury to be less than the Value fixed thereon by the said Company, then the said Company shall pay the whole Costs and Charges, as well on the Part of the said *William Shorthouse*, his Heirs or Assigns, as on the Part of the said Company, in and about or touching the calling out such Jury, or in or relating to the Inquiry or Investigation before them as aforesaid.

The Company not to take more than Thirty Acres of Matthias Attwood's Land for a Reservoir; nor any after the Expiration of Three Years, without his Consent.

XXVII. Provided always, and be it further enacted, That it shall not be lawful for the said Company of Proprietors to take or use, for the Purposes of this Act, any larger Quantity of the Lands of the said *Matthias Attwood* than Thirty Acres; nor shall it be lawful for the said Company of Proprietors to make or form any Reservoir or other Works, in any other Direction, on any other Parts of the Lands of the said *Matthias Attwood*, in the Parishes of *Northfield* and *King's Norton*, or either of them, than those which are particularly appropriated and described in this Act, or in the Plan of *Netlam Giles*, deposited in the Private Bill Office of the House of Commons, without the previous Consent in Writing of the said *Matthias Attwood*, or other the Person or Persons entitled thereto; nor to enter upon, take, or use any Lands, being the Property of the said *Matthias Attwood* at the Time of passing this Act, after the Expiration of Three Years from the passing of this Act, unless previously purchased and paid for by the said Company of Proprietors, without the like Consent in Writing of the said *Matthias Attwood*, or other the Person or Persons entitled as aforesaid; any thing in this Act contained to the contrary notwithstanding.

XXVIII. Pro-

The Company not to take any Lands of Matthias Attwood for a Reservoir, unless taken or paid for in Three Years.

XXVIII. Provided always, and be it further enacted, That in case the said Company of Proprietors shall not think fit to take the Lands of the said *Matthias Attwood*, to make the said intended Reservoir for the Use of the said Canal, within the Time limited by this Act, and subject to the Conditions and Restrictions in this Act contained, or to pay the said *Matthias Attwood*, or other Person or Persons entitled thereto as aforesaid, for the Lands so to be purchased of him or them by the said Company of Proprietors, for the Purposes of such Reservoir, under the Powers and Authorities of this Act, then and in such Case it shall not be lawful for the said Company of Proprietors to take or use under the Authority of this Act any Part or Parts of the Lands of the said *Matthias Attwood*, without the Consent in Writing of the said *Matthias Attwood*, or other the Person or Persons entitled thereto as aforesaid, for those Purposes first had and obtained; and then also and in such Case nothing herein contained shall conclude, prejudice, or affect the Right or Property of the said *Matthias Attwood* in or to any Lands, Waters, or Watercourses heretofore taken, used, or diverted by the said Company for the Purposes of the said recited Acts, or either of them, or his Right to recover the Possession thereof, or any Damages for the same.

The Right of floating Part of the Cotteridge Estate given to the Owner and Occupier.

XXIX. And be it further enacted, That it shall and may be lawful to and for *William Spurrier*, his Heirs and Assigns, and all and every other the future Owners and Occupiers of an Estate in the Parish of *King's Norton*, called *The Cotteridge Estate*, now in the Possession of *Barnabas Cheshire*, for the Time being, to put and place down One or more Stop Gate or Gates upon any Part of the Feeders or Leaders from the said Reservoirs, or either of them, so to be made or extended at or near *Witchall* aforesaid for the Use of the said Canal, as shall be made upon or pass through the said Estate called *The Cotteridge Estate*, for the Purpose of floating such Part of the Lands of the said *Cotteridge* Estate as shall lie below the said Feeders or Leaders, or any or either of them; and at such Time or Times as the Water shall run over the Weirs of the said Reservoirs respectively, or the Weirs of the said Canal, or either of them, to shut such Gate or Gates, and float the said Lands with Water from and out of the said Reservoirs, Canal, and Leaders or Feeders, any or either of them; and also to unload upon any Part of the said *Cotteridge* Estate, Lime, Compost, or Manure, for the Improvement thereof, from and out of any Boat or other Vessel upon the said Canal, over any Part of the Towing Path of the said Canal next or adjoining to the said *Cotteridge* Estate, and for that Purpose to place a Gate or Gates in any Part or Parts of the Fence of the said Towing Path adjoining to the said Estate, doing as little Damage as may be to the said Towing Path and Canal.

Company to make Satisfaction for Lands taken and Damage done, &c.

XXX. And be it further enacted, That Satisfaction for any Lands, Tenements, or Hereditaments which shall be used and taken for the Purpose of or under the Authority of this Act, or for any Damage or Injury that shall be done or occasioned in carrying this Act into Execution, shall be made in the Manner directed by the said first-recited Act with respect to Lands taken or used, or any Trespass or Damage done, in the Execution of the same Act; except only that the Satisfaction to be made for any Lands, Tenements, or Hereditaments which shall hereafter be taken or used for the Purposes of the said recited Acts or this Act, or any or either of them, shall always be made by the Payment of a Sum of Money in gross and

not otherwise; and that so much of the said recited Acts as directs such Compensation to be made by an annual Rent or annual Payment shall from and after the passing of this Act be and the same is hereby repealed.

Compensation to be made for Lands.

XXXI. Provided always, and be it further enacted, That no Part of the said Lands hereby authorized to be taken by the said Company of Proprietors for the Purposes of this Act shall be taken or made use of by the said Company of Proprietors, until the Compensation for the same, to be agreed upon or awarded pursuant to the Directions of the said first-recited Act, shall be paid or tendered by or on the Part of the said Company of Proprietors to the Owner or Owners thereof, or be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Chancery, as the Case shall require, pursuant to the Directions of the said recited Act of the Forty-fourth Year of the Reign of His present Majesty.

An Occupation Road Bridge to be built on the Road leading from Northfield by Witchall Farm House.

XXXII. And be it further enacted, That an Occupation Bridge, with a Roadway at least Eight Feet wide, and a Wall on each Side Two Feet high, shall be made over the new Course of the said River *Rea*, at or near to the North End of the Head of the said Reservoir so to be made for the said Canal, for the Use of the Road leading from *Northfield*, by *Middleton* Hall and *Witchall* Farm House, towards *King's Norton* Village; such Bridge to be made with One Arch only, of a Span not less than Twenty-two Feet at the Topwater Level of the said new Course of the River *Rea*.

Necessary Bridges and Culverts to be made, &c.

XXXIII. And be it further enacted, That the said Company of Proprietors shall at their Expence make, and at all Times thereafter support, repair, and continue, such and so many Brick Bridges, Culverts, or Arches over the said new Course of the River *Rea*, and the Feeders or Leaders to the said Canal, as may be necessary for the convenient Use and Occupation of the Roads or Lands across, in, or through which such new River Course, Feeders, or Leaders respectively shall be made.

Works to be preserved at the Expence of the Company, &c.

XXXIV. And be it further enacted, That the several Works herein-before authorized and directed to be done by the said Company of Proprietors shall be made and at all Times thereafter preserved and kept by and at the Expence of the said Company; and that all such Works as relate to the said Reservoir to be made for the Use of the Mills on the River *Rea*, the new Course of the River *Rea*, and the Catchwater Drain as aforesaid, shall be done to the Satisfaction of Two competent indifferent Civil Engineers or their Umpire, or of such Engineer *ex parte*, as the Case shall require, to be appointed as herein-before is mentioned and directed with respect to examining and measuring the Springs in the Surface Lands of the said Two Reservoirs so to be made and extended respectively as aforesaid for the Use of the said Canal; and that the Award in Writing of the said Two Engineers or the said Umpire, or of the said Engineer *ex parte*, as the Case shall require, shall be final and conclusive upon all Person or Persons, Body or Bodies Politic, Corporate, and Collegiate, interested or to become interested in the Subject Matters of the said Reference or References as last-mentioned; any Statute of Mortmain, Law, Custom, Matter, or Thing to the contrary notwithstanding.

XXXV. Pro-

Road Bridges to be made in a certain Manner.

XXXV. Provided always, and be it further enacted, That the Ascent to every Bridge which shall hereafter be made over the said Canal, or any Aqueduct belonging to the same, for the Use of any Public Road which such Canal or Aqueduct shall cross, shall not be more than One Foot perpendicular in every Thirteen Feet lineal, and that the Fence on each Side of every such Bridge shall not be less than Four Feet above the Surface of the Bridge.

Works to be completed in Five Years, &c.

XXXVI. Provided always, and be it further enacted, That in case the said Reservoirs and other Works hereby authorized to be made, or any of them, shall not be completed (unless prevented by Floods, Tempests, or other unavoidable Accident,) within the Space of Five Years, to be computed from the passing of this Act, then from and immediately after the Expiration of the said Term of Five Years, all the Powers, Authorities, and Privileges hereby given for making the same, shall cease, determine, and be void, save only and except as to so much and such of them (if any) as shall have been finished wthiin the said Term of Five Years.

Proprietors to strengthen the Banks, &c. to convey Water from the Rea into the Reservoir, &c.

XXXVII. And whereas the Reservoir for the Use of the Mills on the River *Rea*, directed by the said first-recited Act to be made on the Estate therein described to be the Property of the Honourable *William Williams Hewett*, in the Occupation of *Thomas Dobbs*, covering Nine Acres of Land, hath been made pursuant to the Directions of the said first-recited Act; but the same cannot be so effectually supplied with Water from the Sources originally intended by the said first-recited Act, as the same might be by the Flood and Surplus Water of the River *Rea*, if the same were carried through the Mill Fleam and Mill Pool of *Lifford* Mill in *King's Norton* aforesaid, belonging to and now in the Possession of the said *Thomas Dobbs*, and the Banks of the said Mill Fleam and Mill Pool were strengthened and raised One Foot at least above their present Height, and the Weirs on the said Mill Fleam and Mill Pool were also raised to One Foot above their present Height: And whereas the said Company of Proprietors and the said *Thomas Dobbs* have agreed that the said last-mentioned Reservoir shall be filled with Flood and Surplus Water of the River *Rea*, to the Height of One Foot above the present Topwater Level of *Lifford* Mill Pool aforesaid, by the Means herein-after mentioned, which will greatly benefit *Lifford* Mill and all the Mills on the River *Rea* below *Lifford* Mill; be it therefore enacted, That the said Company of Proprietors shall be and they are hereby authorized, empowered, and required, some Time between the Months of *November* and *March* next after the passing of this Act, by themselves, their Agents and Workmen, to raise and strengthen the Banks, Stanks, and Dams of the said Mill Pool and Mill Fleam to a sufficient Height and Strength to convey and so as to convey the Flood and Surplus Water out of the River *Rea* aforesaid, through the Mill Fleam and Mill Pool of *Lifford* Mill aforesaid, into the said Reservoir, and therewith to fill the said Reservoir and Mill Pool One Foot in Height and no more above the present Topwater Level of the said Mill Pool, and for that Purpose to raise the Weirs of the said Mill Fleam to the Height of Twelve Inches and no more above their present Height; and to make an Opening or Communication, Thirty Feet wide, between the said Mill Pool and the said Reservoir, the Bottom of which shall be upon a Level with the present Topwater Level of the said Mill Pool, with Sides to be carried to the Height of at least One Foot above the present Topwater Level of the said Mill Pool; and in the said Opening or Communication to construct

and

and place One or more Pair of self-acting Gates of Wood or Cast Iron, as shall be necessary, pointing towards the said Reservoir, or Stable Posts and Wooden Flaps, similar in Principle to those herein-before directed to be placed on the Weir of and for filling the said Reservoir so intended to be made at *Witchall* for the Use of the Mills on the River *Rea*, in lieu of the present *Witchall* Reservoir, so that when the Water in the said Mill Pool shall exceed the Height of the present Topwater Level of the said Mill Pool and of the said Reservoir, the Gates or Wooden Flaps shall open, and the Excess of Water in the said Mill Pool flow into the said Reservoir; and on the contrary, when the Water in the said Reservoir shall be higher than the Water in the said Mill Pool, the Gates or Flaps shall shut to, and prevent the Water from flowing out of the said Reservoir into the said Mill Pool; and further, that it shall be lawful for the said Company of Proprietors, by themselves, their Agents and Workmen, to do all other Acts, Matters, and Things which shall be necessary or proper relative to the conveying of the said Water of the River *Rea* into the said Mill Pool and Reservoir last-mentioned, in the Manner and for the Purposes aforesaid; and further, that it shall be lawful for the said Company of Proprietors, by themselves, their Agents and Workmen, to make, and at all Times thereafter to maintain and keep, One or more Culverts or Drains under the said Mill Fleam, where the same shall be thought necessary, for the Purpose of conveying any Water which may drain into or overflow any of the Lands adjoining to the said Mill Fleam or to the River *Rea* aforesaid, in consequence of the Water in the said Mill Fleam or River *Rea* aforesaid being pounded up higher than heretofore by the raising of the Weirs, Banks, Stanks, and Dams of the said Mill Fleam and Mill Pool as herein-before mentioned; but nothing herein contained shall extend or be construed to extend to hinder or prevent the said Company of Proprietors, or other the Owners of Lands adjoining or near to the said Mill Fleam or River *Rea* aforesaid, from hereafter draining their Lands by Means of the Culvert or Trunk already made under the said Mill Fleam, as they now can or heretofore have done; and in order that the said Works last-mentioned may be done in a workmanlike and substantial Manner, Two competent Civil Engineers shall be appointed within Six Calendar Months from the passing of this Act, one by or on the Part of the said *Thomas Dobbs*, his Heirs, Executors, Administrators, or Assigns, and the other by and on the Part and Behalf of the said Company of Proprietors; which Engineers shall make a Survey, Specification, and Estimate of the Width and Strength of which the present Banks, Stanks, Dams, and Weirs of the said Mill Pool and Mill Fleam ought to be made, and the Manner of widening and strengthening the same respectively, so as to render them fit and proper for carrying the additional Height or Elevation thereof which may be necessary for the Purposes aforesaid, and of the Expence of widening and strengthening the same accordingly; and the said Engineers shall also make a separate Survey, Specification, and Estimate of the Height, Width, and Strength of which the said Banks, Stanks, and Dams of the said Mill Pool and Mill Fleam, and the Weirs thereof, will require to be made beyond their present Height, not exceeding the Heights thereof respectively herein-before directed, so as to carry the Water from and out of the River *Rea* aforesaid, through the Mill Pool and Fleam of *Lifford* Mill aforesaid, into the said last-mentioned Reservoir, so as to fill the same Reservoir and Mill Pool with Water to the Height of Twelve Inches above the present Topwater Level of the said Mill Pool, and of the Manner of raising and making the same of such additional Height, Width, and

Strength

Strength as aforesaid, and of the Expence thereof; and that in case the said Two Engineers so to be appointed as aforesaid shall not agree as to the Matters to be referred to them as herein-before mentioned, or shall not make such Surveys, Specifications, and Estimates thereof respectively as herein-before directed, ready to be delivered to the said Company of Proprietors, and to the said *Thomas Dobbs*, his Heirs, Executors, Administrators, or Assigns respectively, within Three Calendar Months from the Time of their being appointed for that Purpose as aforesaid, then such Matters, Surveys, Specifications, and Estimates, or such of them as shall not be made and signed by the said Two Engineers so to be appointed as last aforesaid, within the Time herein-before mentioned for that Purpose, shall be referred to and made by some other indifferent competent Civil Engineer, to be appointed by the Two last-named Referees; and that the Expence of widening and strengthening the said Banks, Stanks, Dams, and Weirs of the said Mill Fleam and Mill Pool as aforesaid, to their present actual Height, shall be paid and defrayed by the said *Thomas Dobbs*, his Heirs, Executors, or Administrators, and by the said Company of Proprietors, in equal Shares and Proportions; and that the whole of the Expence of raising the said Banks, Stanks, Dams, and Weirs, to such additional Height as may be necessary beyond their present actual Height, so as to carry the Water from and out of the River *Rea* aforesaid into the said last-mentioned Reservoir as aforesaid, shall be paid by the said Company of Proprietors: Provided always nevertheless, that in case the said Company of Proprietors shall neglect or refuse to appoint such Referee on their Part, for the Space of One Calendar Month after being required so to do by Notice in Writing from and signed by the said *Thomas Dobbs*, his Heirs or Assigns, or in case the said *Thomas Dobbs*, his Heirs or Assigns, shall neglect or refuse to appoint such Referee on his or their Part as aforesaid, for the Space of One Calendar Month after being required so to do by Notice in Writing from and signed by the Clerk to the said Company for the Time being, for that Purpose, that then and in either of those Cases the Referee of the Party so giving such Notice shall and may proceed *ex parte* in the said Reference; and his Award, in Writing under his Hand, touching the Matters aforesaid so to be referred to him as aforesaid, or any of them, shall be as good and valid, and as binding and conclusive on the Parties to such Reference, or concerned or interested therein, to all Intents and Purposes, as if such Award had been made by such Two Referees appointed by the said Parties as aforesaid, or their Umpire.

Levels to be taken of the present Height of the Weirs of Lifford Mill, and of the Height to which they shall be raised.

XXXVIII. And be it further enacted, That after such Works as last aforesaid shall be completed and finished in the Judgment and to the Satisfaction of the Engineers or Engineer making such Surveys, Specifications, and Estimates as aforesaid, correct Levels and Admeasurements shall be made and taken by the said Surveyors or their Umpire, or by such Surveyor to be appointed and proceeding *ex parte* as last aforesaid, so that the present actual Height of the Weirs of the said Mill Pool and Mill Fleam, as also the Height of the Weirs thereof when raised as aforesaid, shall be clearly ascertained; which being done, Two Iron or Metal Indexes or Tables shall be made and affixed by the said Company of Proprietors, one against the Wall of *Lifford* Mill aforesaid next the said Mill Pool, or in case of the Removal of the said Mill, against the House of the said *Thomas Dobbs*, and the other against the Aqueduct Bridge in *Floodgate Meadow*, near to

Lifford Mill aforesaid, describing in Yards, Feet, Inches, and the fractional Parts of an Inch, the present actual Height of such Weirs respectively, and the Height the same shall be of respectively when raised as aforesaid; which Indexes or Tables shall for ever thereafter be preserved, supported, renewed, and kept by and at the Expence of the Owners and Occupiers of the Mills on the River *Rea*, from *Lifford* Mill to *Saltley* Mill, all inclusive, in order to describe and perpetuate their respective Heights as aforesaid.

The Banks and Weirs of Lifford Mill, after the same shall be raised, to be kept in Repair by Thomas Dobbs.

XXXIX. And be it further enacted, That from Time to Time for ever after the said Banks, Stanks, Dams, and Weirs of the said Mill Pool and Mill Fleam shall be widened, strengthened, and raised as aforesaid, the same shall be preserved, supported, repaired, renewed, and kept in good Order, Repair, and Condition, and of the same Width, Height, and Strength respectively as last aforesaid, by and at the Expence of the said *Thomas Dobbs*, his Heirs and Assigns, and other the Owner or Owners of the Estate in the Parish of *King's Norton* aforesaid, now belonging to the said *Thomas Dobbs*, and purchased by him of the Devisees and Trustees of the Will of the late Lord *Lifford*, some or one of them, of which the said Mill, Mill Pool, and Fleam are Part and Parcel; and that all and every the Matters and Things herein-before mentioned and contained, and required to be done by and on the Part and Behalf of the said *Thomas Dobbs*, his Heirs, Executors, Administrators, or Assigns, shall be, as to the said Estate of the said *Thomas Dobbs* in *King's Norton* aforesaid, and the same are hereby rendered and declared to be, Liens upon and running with the same Estate; and the Observance and Fulfilment thereof is hereby made a Charge upon the said Estate and Premises, and on the said *Thomas Dobbs*, his Heirs and Assigns, and the future Owner or Owners thereof for the Time being for ever: Provided always, that full Satisfaction shall be made by the said Company of Proprietors for all Damage to be done in or by means of the making, constructing, and doing all or any of such Works as last aforesaid, or in or by reason of the filling or keeping filled with Water the said Mill Pool and Fleam and Reservoir last-mentioned, to the Height of One Foot above the present Topwater Level of the said Mill Pool, save only that the Compensation for Damage, as it respects the said *Thomas Dobbs*, his Heirs, Executors, Administrators, or Assigns, shall be confined to the Damage done to his or their Lands, Tenements, or Hereditaments in or by means of the raising, widening, and strengthening of such Banks, Stanks, Dams, and Weirs of the said Mill Pool and Mill Fleam as aforesaid in the first Instance, and not in the repairing, preserving, or supporting the same afterwards, nor in or by means of the filling or continuing filled with Water the said last-mentioned Mill Pool and Fleam as aforesaid.

T. Dobbs may fence off Part of Lifford Reservoir Embankment.

XL. And be it further enacted, That it shall be lawful for the said *Thomas Dobbs*, his Heirs, Executors, or Administrators, to fence off the Embankment of the South-west End of the said last-mentioned Reservoir, by planting a Quick Fence on or near the Top of the Slope of the said Embankment next the Road there.

So much of 31 G. 3. as relates to the filling and

XLI. And whereas by the said first-recited Act it is enacted, that the Water in the said Three Reservoirs in the Parishes of *King's Norton*, *Northfield*, and *Harbourne*, should from Time to Time be conveyed into the said River

River *Rea*, for the Use and Supply of the said Mills on the said River *Rea*, at such Times and in such Quantities and Manner as the major Part in Number of the Occupiers of the Mills on the said River *Rea* (beginning at Messieurs *Lloyd*'s Slitting Mill in *Birmingham* to *Witchall* Mill and to *Harbourne* Mill, all inclusive), attending either in Person or by Proxy at any Meeting to be holden pursuant to Notice to be given for that Purpose, should from Time to Time direct or appoint: And whereas it is expedient that so much of the said first-recited Act as relates or refers to the filling of the said Reservoir by that Act directed to be made, for the Use of the Mills on the River *Rea*, on the Lands therein described to belong to the Honourable *William Williams Hewitt*, and to the drawing off the Water therefrom for the Use of the said Mill, should, from and after the Banks, Stanks, Dams, and Weirs of *Lifford* Mill Pool and Mill Fleam should be strengthened and raised as aforesaid, thenceforth be repealed, and other Provisions made relating to the said Reservoir; be it therefore enacted, That so much of the said first-recited Act as relates or refers to the filling of the said last-mentioned Reservoir, and to the drawing off the Water therefrom for the Use of the Mills on the River *Rea*, shall, from and after the Banks, Stanks, Dams, and Weirs of *Lifford* Mill Pool and Mill Fleam shall be strengthened and raised as aforesaid, be and the same are hereby declared to be thenceforth repealed.

drawing off the Water from the Mills Reservoirs, repealed.

XLII. And be it further enacted, That the Water in the said last-mentioned Reservoir shall from Time to Time be drawn off and conveyed into the said River *Rea*, for the Use and Supply of the said Mills, at such Times and in such Quantities and Manner as the major Part in Number of the Occupiers of the Mills on the said River (from *Saltley* Mill to *Lifford* Mill, all inclusive), attending either in Person or by Proxy at any Meeting to be holden pursuant to Notice to be given for that Purpose, shall from Time to Time direct or appoint.

Such Water to be drawn off in the Manner agreed upon by the Occupiers of the Mills.

XLIII. And whereas the said Company of Proprietors have purchased, in the Names of *William Haynes* and *William Francis*, as their Trustees, from *Thomas Hooper*, certain Freehold Lands and Hereditaments in the Parish of *King's Norton* aforesaid; and the said Company have also purchased, in the Names of *William Shore* and the said *William Haynes* and *William Francis*, as their Trustees, from *Richard Smith*, certain Freehold Lands and Hereditaments in the Parish of *Northfield* aforesaid, for the Purpose of making Reservoirs on the said several Lands or some Part thereof, for the Use and Supply of the said Canal with Water: And whereas such Part of the Lands on which the said Two new Reservoirs are intended to be made, and the present Reservoir is intended to be extended, as belongs to the said *Matthias Attwood*, the Trustees of the Will of the late *Thomas Clarke Jervoise*, *John Soley*, *George Withers*, *Northfield Church*, *Matthew Groves*, and *William Shorthouse*, being more suitable and convenient for making Reservoirs thereon than some Part of the Lands and Hereditaments so purchased of the said *Thomas Hooper* and *Richard Smith* respectively as aforesaid, such last-mentioned Lands or Hereditaments, or some Part thereof, will not be wanted for the Use of the said Canal: And whereas the said Company of Proprietors had no Power under the said recited Acts to purchase such Lands and Hereditaments; and the same Lands and Hereditaments, having been purchased as aforesaid without the Licence of His

The Company having purchased Lands for the Purpose of Reservoirs, without Authority and without Licence from His Majesty, the same became forfeited.

His Majesty remits the Forfeiture.

His Majesty, are become forfeited to His said Majesty, which Forfeiture His Majesty is graciously pleased to remit; be it therefore enacted and declared, That the said Lands and Hereditaments so purchased for the Benefit of the said Company, and all His Majesty's Right and Interest therein, shall be and the same are hereby vested in the said *William Haynes*, *William Francis*, and *William Shore* respectively, or such of them in whose Names or Name the said Lands and Hereditaments were respectively purchased as aforesaid, and their respective Heirs and Assigns, discharged of all Forfeiture to His said Majesty, His Heirs and Successors, under any Statutes of Mortmain, or otherwise, upon such Trusts for the Benefit of the said Company of Proprietors as have been declared thereof respectively by the said Trustees.

Company authorized to resell such Lands

XLIV. And be it further enacted by the Authority aforesaid, That the said Company of Proprietors shall be and they are hereby authorized, without the Intervention of the Commissioners, under or by virtue of any of the said recited Acts or this Act, to sell all or any such Lands, Tenements, or Hereditaments so purchased from the said *Thomas Hooper* and *Richard Smith* respectively, and hereby vested as aforesaid, in like Manner and as effectually as they could have done in case the same had been Lands or Hereditaments purchased pursuant to and under the Directions or Authority of the said recited Acts, any or either of them; and by Deed under their Common Seal, and under the Hands and Seals of the said Trustees respectively, or their respective Heirs or Assigns, to convey all such Lands, Tenements, and Hereditaments so hereby authorized to be disposed of accordingly; and that in the meantime, and until the said Lands, Tenements, and Hereditaments so purchased from the said *Thomas Hooper* and *Richard Smith* respectively as aforesaid, shall be sold as aforesaid, the same shall continue vested in the said *William Haynes*, *William Shore*, and *William Francis*, or such of them in whose Names or Name the same was or were respectively purchased as aforesaid, and their respective Heirs, in Trust for the said Company of Proprietors as aforesaid, in like Manner and as effectually as they would have been in case the same had been Lands or Hereditaments purchased pursuant to or under the Directions or Authority of the said recited Acts, any or either of them; and that the Money which shall arise by any such Sale or Sales as aforesaid shall be applied for the Purposes of the said recited Acts and this Act, in like Manner as any other Money authorized and directed to be raised by the said recited Acts and this Act, or any of them, is directed to be applied.

Company to sell Lands within Three Years.

XLV. Provided always, and be it further enacted, That the said Company of Proprietors shall, within Three Years after the passing of this Act, sell and dispose of the said Lands, Tenements, and Hereditaments so forfeited to His Majesty, and hereby vested as aforesaid, except such Part thereof as shall be wanted for the said Reservoirs, Feeders, Leaders, or other Works hereby authorized to be made; otherwise the same Lands, Tenements, and Hereditaments, or such Part thereof (except as aforesaid) as shall not be sold within the Time aforesaid, shall at the Expiration of the said Term of Three Years again become forfeited to His Majesty, His Heirs and Successors, any thing in this Act contained to the contrary notwithstanding.

XLVI. Pro-

If the Treasurers Debt be not paid by a certain Time, the King's Norton and Northfield Estates to be sold for that Purpose.

XLVI. Provided always, and be it enacted, That unless a Debt of Twenty-seven thousand and ninety-six Pounds Ten Shillings and Four-pence, now due and owing from the said Company of Proprietors to *William Smith* and *John Startin*, the late Treasurers to the said Company, be paid and discharged by the said Company on or before the Twenty-ninth Day of *September* next, the said Lands and Hereditaments herein-before authorized to be sold by the said Company, or such Parts thereof as shall not be wanted for the Use of the said Canal, or for the Purpose of making Reservoirs, or other the Purposes of the said Canal, shall be sold by the said Company as soon as conveniently may be; and the Money arising therefrom, after and subject to the Payment of the Charges of and attending such Sale and Sales, and the making out of Abstracts of Title, and otherwise relating to the same, shall be paid to the said Treasurers in discharge of their said Debt, or as far as the same will extend or shall be necessary.

Tonnage and Wharfage of Goods carried between the Severn and Lowesmore, repealed.

XLVII. And whereas by the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, a Rate of Two-pence *per* Ton was authorized to be demanded and taken by the said Company of Proprietors for the Tonnage and Wharfage of any Coal, Iron, Ironstone, Stone, Timber, or Goods and Things which should be carried or conveyed in any Boat, Barge, or other Vessel passing to or from the River *Severn* into or out of any Basin then to be made for the Use of the said Navigation at *Lowesmore*, or at any other Place in or near to the City of *Worcester*, and not passing upon any other Part of the said Canal: And whereas the Basin intended to have been made for Barges at *Lowesmore* is abandoned, and a Basin instead thereof has been made or is making for Barges by the said Company of Proprietors at *Diglis*, near the City of *Worcester*; and it is expedient and necessary that so much of the said recited Act as respects the Tonnage and Wharfage to be taken as last recited, should be repealed, and other Provisions substituted in lieu thereof; be it therefore enacted, That so much of the said recited Act as relates to the Tonnage and Wharfage of Coal, Iron, Ironstone, Stone, Timber, or other Goods which shall be carried or conveyed in any Boat, Barge, or other Vessel passing to or from the River *Severn* into or out of any Basin made or intended to be made for the Use of the said Navigation at *Lowesmore*, or at any other Place near to the City of *Worcester*, and not passing on any other Part of the said Canal, shall be and the same is hereby repealed.

Tonnage and Wharfage to be taken of Goods passing between Lowesmore and Sidbury Bridges and the Severn.

XLVIII. And be it further enacted, That it shall and may be lawful for the said Company of Proprietors, from and after the passing of this Act, to demand, receive, and take, for the Tonnage and Wharfage of all Coal, Iron, Ironstone, Stone, Timber, or Goods or Things which shall be carried or conveyed in any Boat, Barge, or other Vessel passing on the said Canal from the River *Severn* to any Part of the said Canal between *Sidbury Bridge* and *Lowesmore Bridge*, or from any Part of the said Canal between *Sidbury Bridge* and *Lowesmore Bridge* and the River *Severn*, and which shall not pass on any other Part of the said Canal, at and after the Rate of Sixpence *per* Ton, and no more; and for the Tonnage and Wharfage of all Coal, Iron, Ironstone, Stone, Timber, or Goods or Things which shall be carried or conveyed in any Boat, Barge, or other Vessel passing on the said Canal to or from the River *Severn* into or out of any

Basin made or to be made for the Use of the said Navigation at or near *Diglis* aforesaid, or on any Part of the said Canal between the River *Severn* and *Sidbury Bridge*, and which shall not pass on any other Part of the said Canal, at and after the Rate of Four-pence *per* Ton, and no more.

Compensation for Tithes, &c.

XLIX. And be it further enacted, That full Recompence and Satisfaction shall be made by the said Company of Proprietors, in manner herein-after mentioned, for all Glebe Lands, and also for all Tithes, both Great and Small, of other Lands which shall or may hereafter be taken or made use of by the said Company for the Purposes and in pursuance of the Powers of the said recited Acts and this Act, or any of them, to the respective Persons entitled or who would have been entitled to such Glebe Lands and Tithes respectively, in case such Lands had not been so taken or made use of, according to their respective Interests therein; such Tithes to be estimated at the Average Value of Four Years ending at *Michaelmas* next before such Lands shall have been taken or used for the Purposes of the said recited Acts and this Act, or any of them; such Average Value to be ascertained and determined (in case of any Difference concerning the same) in such Manner as is directed by the said first-recited Act with respect to Lands or Grounds taken for the Purposes of that Act.

So much of 38 G. 3. as authorizes the raising of the Residue of the 149,929*l.* 1*s.* 1½*d.* repealed.

L. And whereas no Part of the said Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, authorized to be raised for the Purposes of the said Canal and Works by the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, hath been raised by the said Company of Proprietors (save and except the Sum of Four thousand Pounds, which they have borrowed on Mortgage by virtue of the Powers of the said last-mentioned Act); and the Power for creating Half Shares in the said Undertaking contained in the said last-mentioned Act having been repealed by the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, but not the Power to raise the remaining Part of the Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, by other the Ways and Means mentioned in the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty; it is expedient that so much of the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty as authorizes the raising of the Sum of One hundred and forty-five thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, Residue of the said Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny thereby authorized to be raised as aforesaid by any other Means than creating Half Shares, should be repealed, and that in lieu thereof the Sum of Ninety thousand Pounds, still wanting for the Purposes and Engagements of the said Undertaking, should be raised by the Ways and Means in this Act mentioned, or any of them, for enabling the said Company of Proprietors to pay their Debts, and to complete the said Canal and Works by the said recited Acts and this Act, or any of them, authorized to be made; be it therefore enacted, That so much of the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, as authorizes the raising of the Sum of One hundred and forty-five thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny,

Halfpenny, being the Residue of the said Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, thereby authorized to be raised, or any Part thereof, shall be and the same is hereby repealed.

But so as not to affect the Mortgages granted.

LI. Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend to alter or affect the said Mortgages, or any of them, granted for securing the Sum of Four thousand Pounds, Part of the said Sum of One hundred and forty-nine thousand nine hundred and twenty-nine Pounds One Shilling and One Penny Halfpenny, already raised under the Powers of the said recited Act of the Thirty-eighth Year aforesaid, but that the same shall be as valid and effectual, to all Intents and Purposes, as if this Act had not been made.

Company empowered to raise a further Sum of 90,000*l.* by additional Shares, or rateable Contributions amongst themselves, &c.

LII. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors, and they are hereby authorized and empowered, to raise, by voluntary Subscription amongst themselves, or by the Admission of new Subscribers, or by rateable Contributions amongst themselves, according to the Number of Shares which they do or shall respectively hold in the said Undertaking, or in Part by one and in Part by the other of such Means, the Sum of Ninety thousand Pounds over and above the Sums of One hundred and eighty-thousand Pounds, Seventy thousand Pounds, Forty-nine thousand six hundred and eighty Pounds, One hundred and sixty-eight thousand Pounds, and Forty thousand Pounds, authorized to be raised by the said recited Acts of the Thirty-first, Forty-fourth, and Forty-eighth Years of the Reign of His present Majesty, or so much of the same Sums, or any of them, as have been or shall be raised, and over and above the Sum of Four thousand Pounds raised by Mortgage under the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty; and in case the said Sum of Ninety thousand Pounds shall be raised by voluntary Subscription as aforesaid, the said Sum shall be divided into Two thousand two hundred and fifty additional Shares, each Share to be of the Value of Forty Pounds, and so in proportion, in case only a Part of the same Sum shall be raised by Subscription as aforesaid, and such Shares shall be deemed Personal Estate and transferrable accordingly; and all Persons who shall as aforesaid subscribe for or otherwise become entitled to the same, their respective Executors, Administrators, and Assigns, shall be and are hereby declared to be the Owners or Proprietors of such additional Shares in the said Undertaking, and shall be and are hereby incorporated with the said Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation; and in case the said Sum of Ninety thousand Pounds, or any Part thereof, shall be raised by the said Company of Proprietors by Contributions amongst themselves as aforesaid, the same shall be raised by a rateable and proportionable Contribution of the said Proprietors respectively, according to the Number of Shares which they respectively do, or when such Contribution shall be made shall, hold in the said Undertaking; and the Sums so to be contributed shall be paid by such Instalments and at such Times as the said Company of Proprietors, at any General or Special Assembly, or as the said Committee, or any Five or more of them, shall from Time to Time call for and require the

same

same to be paid, so that no one Call shall exceed the Sum of Five Pounds *per* Share in the said Navigation, and so that no Call be made at less Distance than Three Calendar Months from any preceding Call; and the several Powers, Directions, Penalties, Forfeitures, and Provisions contained in the said recited Acts of the Thirty-first, Forty-fourth, and Forty-eighth Years of the Reign of His present Majesty, or any of them, (except so far as any of them are hereby or by the said other recited Acts, or any of them, altered, repealed, or annulled, or are inconsistent with the Provisions, Directions, and Regulations herein contained,) shall extend to the calling for, raising, and recovering the several Sums to be voluntarily subscribed for the said additional Shares, or to be rateably contributed as aforesaid, and to the compelling and obliging the several Subscribers for or Proprietors of the said additional Shares, or rateable Contributors as aforesaid, to pay the respective Sums to be voluntarily subscribed or rateably contributed as aforesaid, and to the transferring and entering the same additional Shares, and in all other respects relating to such additional Shares, Subscriptions, and Contributions respectively as aforesaid, in like Manner as if the same were Part of the Money authorized to be raised by the said recited Acts of the Thirty-first, Forty-fourth, and Forty-eighth Years of the Reign of His present Majesty, or any or either of them, or as if the same several Powers, Directions, Penalties, and Forfeitures, and other Provisions, contained in the said recited Acts of the Thirty-first, Forty-fourth, and Forty-eighth Years of the Reign of His present Majesty, or any of them, were repeated and re-enacted in this Act (except as aforesaid); and that all and every Person and Persons, and their several and respective Executors, Administrators, and Assigns, who shall severally subscribe and pay the Sum of Forty Pounds for each and every of such additional Shares, shall, together with the original Subscribers to the said Undertaking, be entitled to and receive a proportionable Part of the net Profits, and the several Privileges and Advantages that shall or may arise and accrue to the said Company of Proprietors by virtue of the said recited Acts and this Act; and all and every the said additional Shares, and also the Persons respectively entitled thereto, shall be subject to the like Regulations and Provisions as the original Shares in the said Navigation are liable to, save as herein-after mentioned or otherwise provided; and that in the Qualification of Proprietors to vote in the General and other Assemblies, each and every Proprietor of One or more such additional Shares shall be entitled to give his or her Vote or Votes either in Person or by Proxy, and in the same Manner in all other respects as the Proprietors of the original Shares are entitled to do.

Power to raise the Sum of 90,000*l.* by Mortgage or Annuities for Lives or Years.

LIII. Provided always, and be it further enacted, That in case the said Company of Proprietors shall think it more advisable or proper to raise the said Sum of Ninety thousand Pounds, or any Part thereof, by Mortgage of the Rates authorized to be collected on the said Canal, or by granting Annuities for any Term or Number of Years, or for Life or Lives, with Benefit of Survivorship or otherwise, payable out of the said Rates or any of them, instead of raising the same or any Part thereof by voluntary Subscriptions amongst themselves, or by the Admission of new Subscribers, or by rateable Contributions as aforesaid, then it shall be lawful for the said Company of Proprietors, either to borrow and take up at Interest by any

any such Mortgage as aforesaid, from any Person or Persons, upon the Credit of the said Rates or any of them, the said Sum of Ninety thousand Pounds or any Part thereof, or to raise the said Sum of Ninety thousand Pounds or any Part thereof by the granting of such Annuity or Annuities as aforesaid, to or for the Use of any Person or Persons who shall contribute or advance and pay into the Hands of the Treasurers of the said Company for the Time being any such Sum or Sums of Money as the said Company, or their Committee for the Time being, to be chosen by the said Company as in the first-recited Act directed, shall agree upon for the Purchase of any such Annuity or Annuities, to be paid and payable for any Term or Number of Years, or during the natural Life of every such Contributor, or the natural Life or Lives of such Person or Persons as shall be nominated by or on behalf of such Contributor at the Time of the Payment of his or her Contribution or Purchase Money, and either with or without Benefit of Survivorship; and the said Company of Proprietors are hereby authorized and empowered to assign and make over their Interest and Property in the said Canal, and the Rates to arise by virtue of the said recited Acts or this Act, or any Part thereof, as a Security or Securities for any Sum or Sums of Money so to be borrowed as aforesaid, with lawful Interest for the same, or to be taken up by the granting of such Annuity or Annuities as aforesaid, to the Person or Persons who shall advance the same, or to his, her, or their Trustee or Trustees, by Deed of Mortgage or Grant of Annuity or Annuities, in like Manner and Form, (except as herein-after mentioned,) and with and subject to the like Powers and Directions for transferring every such Mortgage and Annuity, and registering the same, and to the like Remedies, Regulations, and Provisions touching and concerning the same, and the Interest and Annuity thereby to be secured, as are mentioned or contained in and by the said Two first-recited Acts, or either of them, respecting the borrowing of Money on Mortgage and granting Annuities, and the Securities to be made for the same; and all Person or Persons to whom any Mortgage or Mortgages have hitherto been made for securing the said Sum of Four thousand Pounds and Interest, or any Part thereof, or any Mortgage or Mortgages or Annuity or Annuities shall be made or granted under any of the Powers of the said recited Acts or this Act, shall be equally entitled, one with another, to the Rates and Property thereby assigned, in proportion to the Interest of the Sum or Sums for which such Mortgage or Mortgages shall be executed; and the Annuity and Annuities shall be granted without Preference by reason of the Priority of Date of any such Mortgage or Grant of Annuity, or otherwise.

Every Annuity so granted may be redeemed after Three Years.

LIV. Provided always, and be it enacted, That every such Annuity so to be granted as aforesaid shall, by express Terms to be contained in the Grant thereof, be made subject to be repurchased by the said Company of Proprietors at any Time after the Expiration of Three Years from the granting thereof, upon giving such Notice as they shall think fit and agree upon, and paying to the Grantee or Grantees of such Annuity or Annuities respectively, his, her, or their Executors, Administrators, or Assigns, a Sum or Sums equal to the original Purchase Money or Monies to be given and paid for such Annuity or Annuities as aforesaid, together with all Arrears of the said Annuity, and a proportionable Part thereof, from

the last Day of Payment thereof up to the Time of such Repurchase, and all Costs and Charges incurred by reason thereof, and with or without any further Sum as and for a Premium for such Repurchase, as shall be agreed upon and stated in such original Grant or Grants thereof as aforesaid, any thing in the said recited Acts, any or either of them, or in this Act, contained to the contrary notwithstanding; and that to the Form of the Grant of an Annuity prescribed by and contained in the said recited Act of the Thirty-eighth Year of the Reign of His present Majesty, there shall be added, immediately after the Time fixed therein for the First Payment of the Annuity, a Proviso in the Words or to the Effect following; (that is to say,)

Form of Proviso for Repurchase of the Annuity.

'PROVIDED always, That the said Company of Proprietors shall and 'may, at any Time after the Expiration of Three Years from the 'Date hereof, if they shall think proper, repurchase the said Annuity 'hereby granted, upon giving [*the Time agreed upon*] previous Notice in 'Writing of their Intention so to do, signed by and with the Name of 'the Clerk of the said Company for the Time being, to the said [*the 'Grantee*] his [*or* her] Executors, Administrators, or Assigns, and paying 'to the said [*the Grantee*], his [*or* her] Executors, Administrators, and 'Assigns, the Sum of [*the original Purchase Money*], together with all 'Arrears of the said Annuity, and a proportionable Part of the said 'Annuity from the last Day of Payment thereof up to the Time of such 'Repurchase, and all Costs and Charges incurred by any Nonpayment 'thereof [*and in case any Premium for the Repurchase shall be agreed upon, 'then add*], and also the Sum of [*the Premium agreed upon*] as and for 'a Premium for such Repurchase."

Debentures made valid Securities, and the Option for accepting a new Share or Mortgage for every Forty Pounds confirmed, &c.

LV. And whereas the Sum of One hundred and sixty-eight thousand Pounds, authorized to be raised by the said Company of Proprietors by the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, being found to be insufficient for completing the said Canal, and other the Purposes in the said recited Act mentioned, to which the same was to be applied; and the said Company of Proprietors not being able to raise Money for such Purposes by any of the several Ways or Means by and in the said recited Acts of the Thirty-first, Thirty-eighth, Forty-fourth, and Forty-eighth Years of the Reign of His present Majesty given and granted for that Purpose, were under the Necessity (as a temporary Measure) of raising the Sum of Forty thousand Pounds, authorized to be raised by the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, by the Creation of new or additional Shares in the said Undertaking, by Debentures of Forty Pounds each, issued under the Common Seal of the said Company, pursuant and subject to the Terms set forth in certain Resolutions of a General Assembly of the said Company of Proprietors held at *Birmingham* on the Fifth Day of *January* One thousand eight hundred and thirteen, with an Option to the Subscribers for such Debentures to take for every Forty Pounds so subscribed One new Share, to be created under the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, or to receive a Mortgage for every Forty Pounds so subscribed and secured by such Debentures, of the Tolls and Rates to arise on the said Canal, as a Security for the Payment of the

said Principal Sum of Forty Pounds so advanced, with lawful Interest, provided such Election were made within Three Years next after the said Canal should by a General or Special General Assembly be declared navigable from *Birmingham* into the *Severn* at *Diglis*, and such Debentures were to carry lawful Interest on the Principal Sum therein contained from the Date thereof, payable on the Twenty-fifth Day of *March* yearly, until the said Debentures were paid off, or Shares in the said Canal or Mortgages on the Tolls and Rates thereof as aforesaid accepted for the same as aforesaid: And whereas Doubts may be entertained of the Validity of such last-mentioned Debentures; be it therefore enacted, That all and every such Debenture and Debentures as last aforesaid shall be good and valid Security and Securities and Lien and Liens upon the Rates authorized to be collected by the said recited Acts and this Act, and every of them, for the Principal Sums specified in such Debentures respectively, and Interest for the same as aforesaid; and that the Proprietors of such last-mentioned Debentures, and every of them, shall have the Option of either accepting One new Share for each Debenture in the said Undertaking, to be created pursuant to the Power contained for creating such new Shares in the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, or else of accepting a Mortgage of the Rates authorized to be collected as aforesaid, for the Principal Sum secured thereby, with lawful Interest for the same, in lieu of such Debentures respectively: Provided always, that unless such Option shall be signified to the said Company of Proprietors, and Application in Writing for exchanging such Debentures for Shares as aforesaid, signed by or with the Name or Names of the Person or Persons making and entitled to make the same, to the Clerk to the said Company, within Three Years next after the said Company of Proprietors shall by Resolution in a General or Special General Assembly have declared the said Canal to be navigable from *Birmingham* into the River *Severn* at *Diglis* aforesaid, the Proprietor or Proprietors of such Debenture or Debentures shall thenceforth be entitled only to exchange the same for a Mortgage or Mortgages to an equal Amount on the said Rates; and that each and every of such Debentures, until exchanged for Shares in the said Undertaking, or for Mortgages as aforesaid, shall bear Interest at the Rate of Five Pounds *per Centum per Annum* on the Principal Sum of Forty Pounds therein respectively mentioned, payable on the Twenty-fifth Day of *March* yearly from the Date thereof; and the Proprietors shall thenceforth be entitled to receive from the said Company the Interest to grow due thereon as and when the same shall become due.

Proprietors of Debentures, or Mortgages in lieu of Debentures, to have the same Claim on the Rates as if originally advanced on

LVI. And be it further enacted, That all Persons to whom any such Debenture or Mortgage hath been or shall be given, or doth or may belong, shall be equally entitled to and have a Lien upon the Rates authorized to be collected by the said recited Acts and every of them, in proportion to the respective Sums in such Debentures or Mortgages mentioned to have been advanced, and thereby secured or intended so to be, as fully to all Intents and Purposes as if the same had in the first instance been advanced upon Mortgage of the said Rates in pursuance and by virtue of the said recited Act of the Forty-eighth Year of the Reign of His present Majesty, and shall be equally entitled, one with another, and with

Mortgage, pursuant to 48 G. 3.

with any Mortgagee or Mortgagees, Annuitant or Annuitants, under the said recited Acts or this Act, to the Rates and Duties granted by the said recited Acts and this Act, and every of them, in proportion to the Interest of the Sum and Sums of Money for which such Mortgage or Mortgages was or were or shall be respectively executed, and such Annuity or Annuities, Debenture or Debentures, was or were or shall be respectively given or granted, without any Preference by reason of Priority of Date of any such Security or Securities, or otherwise; and the Interest of the Money borrowed and secured by such Debentures, or intended so to be, and on any Mortgage or Mortgages to be granted in lieu thereof as aforesaid, shall be paid to the several Persons entitled thereto, at the Times and in manner stipulated or to be stipulated in such Debentures or Mortgages, in preference to any Dividends due or hereafter to become due or payable by virtue of the said recited Acts or this Act to the said Company of Proprietors, or any of them.

Manner of enforcing the Payment of Calls in arrear altered and remedied, &c.

LVII. And whereas there are divers large Sums of Money due to the said Company of Proprietors for Calls upon the Shares of many of the Proprietors which have been made under the said recited Acts, some or One of them: And whereas some of the said Proprietors from whom such Calls are due are dead, others have become bankrupt or insolvent, and the Places of Residence of others are unknown to the Clerk of the said Company; and the like Defaults and Casualties may happen hereafter: And whereas the Provisions of the said recited Acts touching the Recovery of Calls so in arrear are found to be insufficient, and unless more extensive Powers are given to the said Company they will be in danger of losing the Sums of Money due and to become due to them in respect of such Calls; be it therefore further enacted, That if any Person or Persons upon whom any Call or Calls for Money hath or have been or hereafter shall be made, under or by virtue of the said recited Acts or any of them, or of this Act, for and in respect of any Share or Shares in the said Undertaking, shall neglect or refuse to pay the same for the Space of Thirty Days from the passing of this Act in the Case of Calls already made, and for the Space of Six Calendar Months next after the making the same in the Case of any future Call or Calls, together with the Interest due on such Calls respectively, then and in such Case it shall and may be lawful to and for the said Company, at some General or Special General Assembly to be held after such Neglect or Refusal, to declare all and every or any of the Share or Shares of such Person or Persons so neglecting or refusing as aforesaid to be forfeited; and from thenceforth the said Share or Shares so declared to be forfeited, and all the Profit and Benefit thereof, shall be vested in the said Company, their Successors and Assigns, to and for the Uses and Purposes herein-after mentioned: Provided always, that no Share or Shares of and in the said Undertaking shall be forfeited or vested in and accrue to the said Company, until Notice shall have been published in the *London Gazette*, and some One *Worcester* and One *Birmingham* Newspaper, Thirty Days at least before the holding of such General or Special General Assembly, in which Notice shall be contained a Statement and Account of how much Money is due from such Person or Persons for such Call or Calls in respect of his, her, or their Share or Shares in the said Undertaking, exclusive of the Interest thereon; and no such Share or

No Share forfeited until Notice in the London Gazette, and a Worcester and Birmingham Newspaper.

Shares

Shares shall be forfeited to or vested in the said Company, if the Owner or Owners of such Share or Shares shall, before the holding of such General or Special General Assembly, pay what shall be due thereon for such Call or Calls as aforesaid, and legal Interest for the same, and all the Expences attending the Application for and advertising of the same as aforesaid.

Company may sell Shares vested in them by Default of Owners not paying the Calls, &c.

LVIII. And be it further enacted, That when any Share or Shares of the said Undertaking shall by virtue of this Act have become forfeited to or vested in the said Company as aforesaid, then and in every such Case it shall and may be lawful to and for the said Company, or their Committee for the Time being, and they are hereby authorized and empowered, from Time to Time to sell or cause to be sold, by public Auction or private Contract, and by Writing under the Common Seal of the Company to assign and transfer such and so many of the Share or Shares of such Defaulter or Defaulters as the said Company or their Committee shall from Time to Time find necessary and direct to be sold, unto such Person or Persons as shall become the Purchaser or Purchasers thereof, his, her, or their Executors, Administrators, and Assigns; and such Assignments and Transfers shall be good, valid, and effectual against the Owner or Owners of every such Share or Shares so forfeited to or vested in the said Company, and sold as aforesaid, and all Persons claiming under him, her, or them: Provided always, that in case the Money produced by the Sale of any such Share or Shares shall be more than sufficient to pay all such Arrears of Calls as aforesaid, and legal Interest thereon, and the Expences attending the Sale or Sales thereof, the Surplus arising from such Sale or Sales shall be paid to the Person or Persons to whom such Share or Shares shall have belonged, on Demand: Provided also, that the said Company of Proprietors, or their Committee, shall not, by virtue of this Act, sell or transfer, or direct to be sold or transferred, any more of such Shares of such Defaulter or Defaulters than shall be sufficient, as near as may be at the Time of such Sale, to pay the Arrears due by such Defaulter or Defaulters for or on account of such Call or Calls, and the Interest and Expences attending the same; and from and after the Payment of all and every the Call or Calls so made or to be made by virtue of the said recited Acts, or any of them, or of this Act, and the Interest and Expences as aforesaid, any Share or Shares vested in the said Company of Proprietors as aforesaid, which shall remain in their Hands unsold, shall revert to and again become the Property of the Person or Persons to whom such Share or Shares shall have belonged immediately before such Forfeiture as aforesaid, in such Manner as if such Calls had been duly and regularly paid.

Mode of recovering Rates of Tonnage and Wharfage.

LIX. And be it further enacted, That the Rates of Tonnage and Wharfage granted by the said recited Acts and this Act respectively shall be paid to such Person or Persons, at such Place or Places near to the said Canal, in such Manner and under such Regulations as the said Company of Proprietors, or their Committee for the Time being, or any Five or more of them, shall direct or appoint; and in case of Refusal or Neglect of Payment of any such Rates, on Demand, to the Person or Persons ap-

pointed to receive the same, the said Company of Proprietors may sue for and recover the same by Action of Debt or upon the Case in any Court of Record; or the Person or Persons so appointed to receive the same as aforesaid may and is and are hereby empowered to seize and distrain the Goods and Things for or in respect whereof such Rates shall be due and payable, or any Part thereof, and also the Boat or Vessel (in case of Rates of Tonnage) laden with the Goods or Things for which such Rates of Tonnage shall be due and payable, and to detain the same until Payment thereof, and of the reasonable Charges of taking and keeping such Distress; and if such Distress shall not be redeemed within Five Days after the taking thereof, the same shall be sold by public Auction; and the Overplus of the Money arising by such Sale, after deducting thereout the Amount of the Rates for which such Distress shall be taken, and the reasonable Charges of taking, keeping, and selling such Distress, shall be paid to the Owner or Owners of such Goods, Vessels, or other Things so distrained, on Demand.

Exemptions from Tolls of Materials for Repair of Roads and Manure by 31 G.3. c.59. repealed.

LX. And whereas by the said first-recited Act it is enacted, that no Paving Stones, Gravel, Sand, or other Materials for making and repairing of Roads, nor any Dung, Soil, Marl, or any Manure (Lime and Limestone excepted) for the Improvement only of the Lands or Grounds of any Person or Persons whose Lands or Grounds shall or may be had or taken for or upon account of making the said Canal or other Works aforesaid, should be charged with or liable to the Payment of any of the Rates authorized to be taken by that Act, but should be free and exempted from the same, provided the Matters or Things so exempted from the Payment of the said Rates as aforesaid did not pass through any Lock to be made by virtue of that Act, except at such Times when the Water should flow over the Lock Weir; and that all Persons who should own or be concerned or employed in carrying or conveying any Paving Stones, Gravel, Sand, or other Materials for the Repairs of Roads, or Dung, Soil, Marl, or other Manure (except Lime and Limestone), upon or along the said Canal, should have free Liberty to make use of the Towing Paths, Wharfs, or Quays belonging to the said Company of Proprietors, such Persons not suffering such Paving Stones, Gravel, Sand, or other Materials, Dung, Soil, Marl, or other Manure, to lie upon such Wharfs or Quays longer than might be necessary for loading, unloading, and conveying the same from and to the several Places where they should be put on board and unloaded, and making good any Damages that might be done to the Sides or Banks of the said Canal by the loading, unloading, or discharging the Boats or other Vessels carrying or conveying the same; which Recompence or Satisfaction, in case of any Difference, should be settled and ascertained by the said Commissioners: And whereas it is expedient that such Liberties and Privileges be altered and restricted; be it therefore further enacted, That the said Proviso so contained in the said first-recited Act shall be and the same is hereby repealed.

Exemptions from Tonnage and Wharfage.

LXI. Provided always, and be it further enacted, That no Paving Stones, Gravel, Sand, or other Materials for making and repairing of Roads situated only in any of the Parishes in or through which the said Canal

Canal or other Works has or have been so cut and made, nor any Dung, Soil, Marl, or other Manure (Lime and Limestone excepted) for the Improvement only of the Lands or Grounds in any Parish or Place through which the said Canal or other Works hath or have been so cut or made, belonging or hereafter to belong to any Person or Persons whose Lands or Grounds, or Part thereof, do or shall adjoin to the said Canal or other Works aforesaid, shall be charged with or liable to the Payment of any of the Rates authorized to be taken by the said recited Acts or any of them, or by this Act, but shall be free and exempted from the same; provided the Matters or Things so exempted from the Payment of the said Rates as aforesaid do not pass through any Lock made or to be made by virtue of the said first-recited Act, except at such Times when the Water shall flow over the Lock Weir; and that all Persons who shall own or be concerned or employed in carrying or conveying any Paving Stones, Gravel, Sand, or other Materials for the Repair of the said Roads, or Dung, Soil, Marl, or other Manure (except Lime and Limestone) for the Purpose aforesaid, upon or along the said Canal, shall have free Liberty to make use of the Towing Paths, Wharfs, or Quays belonging to the said Company of Proprietors, such Persons not suffering such Paving Stones, Gravel, Sand, or other Materials, Dung, Soil, Marl, or other Manure, to lie upon such Wharfs or Quays longer than may be necessary for loading, unloading, and conveying the same from and to the several Places where they are or shall be put on board and unloaded, and making good any Damages that may be done to the Sides or Banks of the said Canal by the loading, unloading, and discharging the Boats or other Vessels carrying and conveying the same; which Recompence or Satisfaction, in case of any Difference, shall be settled and ascertained by any Five or more of the said Commissioners, where the Sum claimed in respect thereof shall amount to Five Pounds or more, but where the same shall not amount to that Sum, then by any Three of the said Commissioners; and the Sum to be awarded for the same, and all Costs and Expences to be occasioned by any Nonpayment thereof, and also by ascertaining the same, if the Sum to be awarded shall amount to or exceed the Sum to be claimed, or else with the Deduction of such Costs and Expences, shall and may be recovered by Action, Distress, or otherwise, in such and the same Manner as by this Act the several Rates of Tonnage and Wharfage granted by the said recited Acts or this Act, or any of them, and the Charges of obtaining the same, are directed and authorized to be recovered.

Clause in 38G.3. c.31. respecting the making of Wharfs, Warehouses, &c. by Lords of Manors and Owners of Lands, repealed.

LXII. And whereas by the said recited Act passed in the Thirty-eighth Year of the Reign of His present Majesty it is enacted, that if any Lord or Lords of any Manor or Manors, or the Owner or Owners of any Lands or Grounds through which the said Canal was or should be made, should not, within the Space of Twelve Calendar Months next after Notice given in Writing to him or them, or left at his or their usual Place or Places of Abode, by or on the Behalf of the said Company of Proprietors, that any Part or Parts of such Lands, Grounds, or Wastes was or were intended to be used by them for the Purpose of making Landing Places and Wharfs for the Use of the said Navigation, and from Time to Time keep in good and substantial Repair such proper and sufficient Landing Places and

and Wharfs for the Use of the said Navigation, as the said Commissioners should think necessary, and on the respective Part or Parts of the Lands or Grounds described in such Notice, that then the said Company of Proprietors should have full Power and Authority, without any Hindrance or Restraint whatsoever, to make use of such Land, Ground, or Wastes for making proper and sufficient Landing Places and Wharfs, according to such Notice as aforesaid, first making Satisfaction for the same in such Manner as by the said recited Act of the Thirty-first Year of His present Majesty is directed with respect to other Lands which should be taken or used for the Purpose of the said Navigation; be it enacted, That so much of the said Act of the Thirty-eighth Year of His present Majesty as is contained in the last-recited Enactment or Provision shall be and the same is hereby repealed.

The last Clause re-enacted, with some Alteration.

LXIII. And be it further enacted, That if any Lord or Lords, Lady or Ladies of any Manor or Manors, or the Owner or Owners of any Lands or Grounds through which the said Canal is or shall be made, shall not, within the Space of Twelve Calendar Months next after Notice given in Writing to him, her, or them, or left at his, her, or their usual or last known Place or Places of Abode, by or on the Behalf of the said Company of Proprietors, that any Part or Parts of such Lands, Grounds, or Wastes is or are intended to be used by them for the Purpose of making Landing Places or Wharfs, or for building Warehouses, Weighing Machines or other Engines upon, for the Use of the said Navigation, make and erect, and from Time to Time keep in good and substantial Repair, such proper and sufficient Landing Places, Wharfs, Warehouses, Weighing Machines or other Engines, for the Use of the said Navigation, to be specified in such Notice, as the said Commissioners shall think necessary, and on such Part or Parts of the said Lands or Grounds as shall be described for that Purpose in such Notice, then the said Company of Proprietors shall have full Power and Authority, without any Hindrance or Restraint whatsoever, to make use of such Land, Grounds, or Waste for making proper and sufficient Landing Places and Wharfs, or for building Warehouses, Weighing Machines or other Engines upon, as aforesaid, according to such Notice as aforesaid, first making Satisfaction for the same in such Manner as by the said recited Act of the Thirty-first Year of His present Majesty is directed with respect to other Lands which should be taken or used for the Purpose of the said Navigation.

Company not to injure Houses, &c.

LXIV. Provided always, and be it further enacted, That nothing hereinbefore contained shall authorize or empower the said Company of Proprietors to take or use, or to injure or damage, any House or other Building, or any Garden, Yard, Park, Paddock, planted Walk or Avenue to a House, or any Lawn inclosed or adjoining to any House, or Nursery or Plantation for Trees, without the Consent of the respective Owners and Occupiers thereof.

Commissioners under recited Acts to

LXV. And be it further enacted, That the Commissioners named and appointed or to be named and appointed in or by virtue of the said recited Acts or any or either of them (qualified and acting as therein mentioned respectively)

respectively) are hereby appointed Commissioners for settling, determining, and adjusting of all Matters and Differences which shall or may arise between the said Company of Proprietors and the Owners of or Persons interested in any Lands, Tenements, or Hereditaments that shall or may be taken, affected, or prejudiced by the Execution of any of the Powers hereby granted. Commissioners under this Act.

LXVI. And be it further enacted, That the said recited Acts, and all and every the Rates, Tolls, Duties, Provisions, and Clauses, Powers, Exemptions, Rules, Remedies, Regulations, Penalties, Forfeitures, Articles, Matters, and Things whatsoever therein contained, (save and except such Parts of the same Acts, or any of them, and of the Tolls, Rates, and Duties, as are by the others of them, or by this Act, altered, varied, or repealed,) shall be and the same are hereby declared to be in full Force and Effect, and shall be as good, valid, and effectual, both in themselves and also for carrying this Act into Execution, where applicable, in as full, ample, and beneficial a Manner, to all Intents and Purposes whatsoever, as if the same had been repeated and re-enacted in this Act. Powers of recited Acts confirmed, except as altered or repealed by any of the said recited Acts or this Act.

LXVII. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing of this Act, and of the Surveys and Estimates incident thereto, and all other Costs, Charges, and Expences concerning the same, shall be borne, paid, and defrayed by the said Company of Proprietors out of any Money already raised or received, or out of the first Monies to be hereafter raised or received by virtue of the said recited Acts or any of them, or this Act. Expences of this Act.

LXVIII. 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, without being specially pleaded. Public Act.

SCHEDULE referred to by this Act.

The Lands of Matthias Attwood, the Trustees of the Will of the late Thomas Clarke Jervoise, Esquire, deceased, John Soley, Esquire, George Withers, the Glebe Land of Northfield Church, Matthew Groves, the said Company of Proprietors, and William Shorthouse, respectively, situate in the Parishes of King's Norton and Northfield, or one of them, in the County of Worcester, intended to be taken for the making, extending, and enlarging of the Reservoirs by this Act authorized to be made, enlarged, or extended respectively, are those which are described for that Purpose in the Plan and Book of Reference of Netlam Giles, deposited in the Private Bill Office of the House of Commons.

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