



ANNO QUINQUAGESIMO QUINTO

GEORGIUM III. REGIS.

Cap. xl.

An Act for establishing a Navigable Communication between the *Birmingham Canal Navigations* and the *Worcester and Birmingham Canal*, and amending certain Acts passed relative thereto.

[12th May 1815.]

WHEREAS an Act was passed in the Eighth Year of the Reign of His present Majesty, intituled *An Act for making and maintaining a Navigable Cut or Canal from Birmingham to Billstone, and from thence to Autherley, there to communicate with the Canal now making between the Rivers Severn and Trent, and for making Collateral Cuts up to several Coal Mines*: And whereas an Act was passed in the Ninth Year of the Reign of His said present Majesty, intituled *An Act to rectify a Mistake in an Act passed in the Eighth Year of His present Majesty, intituled 'An Act for making and maintaining a Navigable Cut or Canal from Birmingham to Billstone, and from thence to Autherley, there to communicate with the Canal now making between the Rivers Severn and Trent, and for making Collateral Cuts up to several Coal Mines, and to explain and amend the said Act'*: And whereas another Act was passed in the Twenty-third Year of the Reign of His said present Majesty, intituled *An Act for making and maintaining a Navigable Canal from a Place near Riders Green, in the County of Stafford, to Broadwater Fire Engine, and Six Collateral Cuts from the same to several Coal Mines; and also a Navigable Canal from or near the Town of Birmingham, to join the Coventry Canal, at or near*

[Local.] 11 H Fazeley,

8 G. 3. c. 38.
9 G. 3. c. 53.
23 G. 3. c. 92.

Fazeley, in the Parish of Tamworth, in the said County of Stafford, with a Col-
 lateral Cut to the lower Part of the said Town of Birmingham: And whereas
 24 G. 3. c. 4. an Act was passed in the Twenty-fourth Year of the Reign of His said
 present Majesty, intituled *An Act for incorporating the Company of Pro-
 prietors of a Canal Navigation authorized by an Act passed in the Eighth Year
 of the Reign of His present Majesty King George the Third, to be made from
 Birmingham to Billstone and Autherley, with the Company of Proprietors of
 a Canal Navigation authorized by an Act passed in the Twenty-third Year of
 the Reign of His present Majesty, to be made from Birmingham to Fazeley,
 and for consolidating their Shares, and amending the said last-mentioned Act:*
 And whereas another Act was passed in the Thirty-fourth Year of the Reign
 34 G. 3. c. 87. of His said present Majesty, intituled *An Act for extending and improving
 the Birmingham Canal Navigations:* And whereas another Act was passed in
 46 G. 3. c. 92. the Forty-sixth Year of the Reign of His said present Majesty, intituled *An
 Act for improving the Birmingham Canal Navigation:* And whereas another
 Act was passed in the Fifty-first Year of the Reign of His said present Majesty,
 51 G. 3. c. 105. intituled *An Act for enlarging the Powers of several Acts of His present
 Majesty, for making and maintaining the Birmingham Canal Navigations,
 and for further extending and improving the same:* And whereas in pursu-
 ance of the said several recited Acts, or some of them, the Company of
 Proprietors of the *Birmingham Canal Navigations* have made Navigable
 Canals from *Birmingham*, in the County of *Warwick*, to communicate
 with the Canal Navigation between the Rivers *Severn* and *Trent*, and from
Birmingham aforesaid to *Fazeley* and *Whittington Brook*, which have opened
 Navigable Communications with the *Coventry Canal*, and the Canal from
 the *Trent* to the *Mersey*; and have also completed Canals and Cuts to the
 lower Part of the Town of *Birmingham*, and to the extensive and valuable
 Mines of Coal, Ironstone, Limestone, and Pot Clay, in the Parishes of
Wednesbury, *Tipton*, *Sedgley*, *Wolverhampton*, and *West Bromwich*, and to
 the Borough of *Walsall*, in the County of *Stafford*: And whereas by an
 Act passed in the Thirty-first Year of the Reign of His present Majesty,
 31 G. 3. c. 59. 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 com-
 municate with the River Severn, near to the City of Worcester*, it is pro-
 vided that nothing therein contained shall authorize or empower the Com-
 pany of Proprietors, by the same Act incorporated, to cause the Canal
 thereby authorized to be made, and therein called *The Worcester and Bir-
 mingham Canal*, or any Cut or Basin, to be carried or made nearer than
 to within the Distance of Seven Feet from the *Birmingham Canal Naviga-
 tions* (then stiled *The Birmingham and Birmingham and Fazeley Canal*)
 without the Consent of the Company of Proprietors of the said *Birmingham
 Canal Navigations*, testified by Writing under their Common Seal: And
 whereas the said *Worcester and Birmingham Canal* is now completed, and
 navigable from a Wall or Bar erected pursuant to the said Act of the
 Thirty-first Year of the Reign of His present Majesty, within Seven Feet
 of the said *Birmingham Canal*, in or near to the said Town of *Birmingham*,
 to the River *Severn*, at the Place called *Diglis*, near to the City of *Worcester*
 aforesaid: And whereas the opening of a Navigable Communication be-
 tween the said *Birmingham Canal Navigations* and the said *Worcester and
 Birmingham Canal* will be the Means of more fully and effectually carry-
 ing into Execution the public and beneficial Purposes intended by the said
 Act of the Thirty-first Year of the Reign of His present Majesty, and be
 of great Public Utility: And whereas the Company of Proprietors of the
Birmingham

Birmingham Canal Navigations have consented, upon the Application and Request of the Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation, that a Communication shall be opened between the said *Birmingham* Canal Navigations and the said *Worcester* and *Birmingham* Canal, Provision being made for keeping separate, and preserving, the Waters of and belonging to the said Canals respectively, and preventing their flowing out of the one Canal into the other; and also for a reasonable Compensation to the said Company of Proprietors of the *Birmingham* Canal Navigations, for the Loss and Diversion of a considerable Trade and the Profits thereof, which they now enjoy, over and along a great Part of their Navigations, and which will be hereafter conveyed along the said *Worcester* and *Birmingham* Canal: 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 it shall be lawful for the Company of Proprietors of the *Birmingham* Canal Navigations, and they are hereby empowered and required, at their own proper Costs and Charges, to erect or make, or cause to be erected or made, One or more Lock or Locks, and such other Works as may be found expedient to effect and maintain the said proposed Navigable Communication; such Lock or Locks, or some Part thereof, to be erected and made upon the Land or Ground belonging to the said Company of Proprietors of the *Birmingham* Canal Navigations, at or near the Termination of the said *Worcester* and *Birmingham* Canal, in the said Parish of *Birmingham*, between the Bridge over the said *Birmingham* Canal, where the same crosses the *Halesowen* Turnpike Road, and the Sluice communicating with the Basin belonging to the *Worcester* and *Birmingham* Canal Navigation, and that such Lock or Locks shall be of such Dimensions as to admit of One Boat, Barge, or other Vessel, of the Construction commonly in use upon the said Canal Navigations; and that such Lock or Locks shall be furnished with Two Gates or Two Pairs of Gates, to be placed at such Distance as to admit the Boats, Barges, or other Vessels, for which the same is or are designed, into the Body of such Lock or Locks between the said Gates, in the same Manner as in any common Lock; and that Two of the said Gates or Pairs of Gates shall be made to open in such Direction as to maintain and uphold the Water of the said *Birmingham* Canal Navigations, and prevent it from flowing into the said *Worcester* and *Birmingham* Canal; and that the other Two Gates or Pairs of Gates shall be made to open in the contrary Direction, to maintain and uphold the Water of the said *Worcester* and *Birmingham* Canal Navigation, and prevent it from flowing into the said *Birmingham* Canal; and that such Lock or Locks shall from Time to Time be supported, maintained, and kept in Order, and repaired, according to the best practicable Mode of repairing and keeping Locks Water-tight, at the Expence of the said Company of Proprietors of the said *Birmingham* Canal Navigations; and that if from neglect of necessary Repair of any such Lock or Locks, or the Gates belonging thereto, the Company of Proprietors of either of the said Canals shall be aggrieved by the Loss of Water, it shall be lawful for such Company so aggrieved to cause the Passage of any such Lock or Locks to be stopt for any reasonable Time necessary to repair and amend the same; and in case the Company of Proprietors of the said *Birmingham* Canal Navigations shall neglect or refuse to commence the Repairs of such Lock or Locks, or any Gate or

A Lock to be erected at the Termination of the *Worcester* and *Birmingham* Canal.

Gates belonging thereto, for the Space of Twenty-four Hours after Application shall have been made to them or their Agents by the said Company of Proprietors of the said *Worcester* and *Birmingham* Canal Navigation or their Agents or Agent duly appointed, or shall neglect to complete the same with all reasonable Dispatch, that then and in every such Case it shall be lawful for the said Company of Proprietors of the said *Worcester* and *Birmingham* Canal Navigation, by Agents and Workmen of their own Appointment, to make such Reparations and Amendments as shall be necessary, at the proper Costs and Charges of the said Company of Proprietors of the *Birmingham* Canal Navigations; such Costs and Charges to be paid by the Treasurer of the said *Birmingham* Canal Navigations, who is hereby authorized and required to pay the same.

To ascertain the Situation of the Lock or Locks.

II. Provided always, and be it enacted, That nothing herein contained shall authorize or empower the said Company of Proprietors of the *Birmingham* Canal Navigations to erect the said Lock or Locks, or such other Works for effecting and maintaining the said proposed Navigable Communication, so as in anywise to prevent, hinder, or obstruct the Passage of Boats and Vessels into or out of a certain Sluice now open into the said *Worcester* and *Birmingham* Canal, and a certain other Sluice now open into the said *Birmingham* Canal Navigations, and communicating with the Land Wharfs and Warehouses belonging to the Honourable *Washington Shirley* and his Co-Lessees, situate in the Parish of *Birmingham* aforesaid, and held under the Governors of the Free Grammar School of *King Edward* the Sixth, in *Birmingham*; but it shall be lawful for the Company of Proprietors of the *Birmingham* Canal Navigations, for the Purpose of making and erecting the said Lock or Locks and Works in the most convenient Situation, to remove and alter the said first-mentioned Sluice to any Distance towards the Aqueduct under the said *Worcester* and *Birmingham* Canal, in the Parish of *Birmingham*, not exceeding Sixteen Yards; provided that the said Company of Proprietors of the said *Birmingham* Canal Navigations do and shall, at their own Costs and Charges, make and construct, for the Use and Benefit of the said *Washington Shirley* and his Co-Lessees, another Sluice out of the said Basin, belonging to the said *Worcester* and *Birmingham* Canal Company, to communicate with the said Wharf and Warehouses equally commodious as the present Sluice, and to the Satisfaction of the said *Washington Shirley*, such new Sluice to be made and completed before the present shall be altered or removed.

For providing Lockage Water between the Two Canals, and directing who shall have the Management of the said Locks.

III. And be it further enacted, That the Direction and Management of the Passage of Boats through the said Lock or Locks shall, from Time to Time and at all Times, be under the Controul of the Agent of the Company of Proprietors of the Canal whose Surface of Water shall at the Time stand the highest; and that the Water necessary to fill the Chamber of the said Lock or Locks for the Passage of every such Boat, to the Level of the Canal whose Water shall then be highest, shall be provided by the Company of Proprietors of that Canal in which the Water shall be the highest; and the Company of Proprietors of that Canal in which the Water shall be the lowest shall pay, to the Company of Proprietors of the Canal supplying such Water, for the Water so supplied, at and after the Rate of Three Shillings for every Four thousand Cubic Feet of Water, and the Treasurer of the Company of Proprietors of that Canal into which the Water that shall supply the Lock or Locks as aforesaid shall flow, shall and

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is hereby authorized and required to pay the same: Provided always, that no Sum shall be payable, unless the Difference of Level between the Surface of the Water in the said Two Canals previous to the Passage through the said Lock or Locks shall exceed Six Inches, nor shall any Quantity of Water be paid for except what shall exceed Six Inches.

IV. And be it further enacted, That the Quantity of Water which shall from Time to Time be so supplied shall be ascertained by proper Gauges, to be fixed and continued at all Times on each Side of such Lock or Locks by the Company of Proprietors of the *Birmingham* Canal Navigations; and the Account thereof shall be taken and kept by the Lock-keepers of the said Two Canals jointly.

Provision for ascertaining Quantity of Water supplied.

V. And be it further enacted, That the Master or Owner of any Boat or Vessel, or any other Person whomsoever, who shall either by forcing or attempting to force any Boat or other Vessel through any such Lock or Locks, without the Consent of the Person having at such Time the Care, Control, and Management of such Lock or Locks as aforesaid, or who shall by any other Means whatsoever cause any Loss of Water to either of the said Companies of Proprietors, shall forfeit and pay to the Company of Proprietors thereby injured, their Successors and Assigns, any Sum not exceeding Five Pounds, at the Discretion of the Justice or Justices before whom he, she, or they shall be convicted of such Offence, the same to be recovered as any Penalty may be recovered by such Company of Proprietors under any Act relating to the Canal or Canals of such Proprietors.

Penalty on causing a Waste of Water.

VI. And be it further enacted, That it shall be lawful for either of the Companies of Proprietors, and their Successors, to order and direct that the Passage through such Lock or Locks shall be shut up from Six of the Clock in the Evening to Six of the Clock in the Morning during the Months of *November*, *December*, and *January*, and at all other Times when the Darkness of the Night may render the Passage of Boats dangerous, or the Loss of Water to either Canal may be thereby in hazard.

Passage of the Locks may be occasionally stopped.

VII. Provided always, and be it further enacted, That if at any Time after the passing of this Act, either of the said Companies of Proprietors shall find that they have an Excess of Water over and above the Quantity then required for the necessary Supply of their own Canal, and the Canals, Cuts, and other Works communicating therewith and dependent thereon, and the other of the said Companies of Proprietors shall find that they have a Deficiency of Water in the Quantity necessarily required for the Supply of their Canal, then and in such Case it shall and may be lawful to and for the Company of Proprietors having such Excess as aforesaid, to permit and allow the Company of Proprietors finding such Deficiency as aforesaid, to have, take and use, upon Terms to be agreed upon between the said Two Companies of Proprietors, such Surplus Water, or so much thereof as it shall be deemed proper by the Company of Proprietors having such Excess to part with and dispose of.

Either Company having Surplus Water, empowered to dispose of same to Company finding a Deficiency.

VIII. And, in order to prevent any Injury to the Company of Proprietors of the said *Birmingham* Canal Navigations, in consequence of their Consent to such proposed Navigable Communication, and to compensate the same Company of Proprietors for the Expence of erecting and maintaining

Compensation to Birmingham Canal Company for loss of Tolls by

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taining the said Lock or Locks, and other necessary Works as aforesaid, and for the Tolls, Rates, and Duties they will be deprived of by the Diversion of Trade from their said Canal, by the Means of the said proposed Communication, be it further enacted, That they the said Company of Proprietors of the *Birmingham* Canal Navigations, their Successors and Assigns, shall and may from Time to Time, and at all Times hereafter, collect, recover, and receive, to and for their own proper Use and Benefit, over and above all other Tolls to which they are now entitled, except as herein-after mentioned, the several Tolls and Dues herein-after mentioned; (that is to say),

Tolls.

For all Coals or other Minerals, Cokes, Goods, Wares, Merchandise, Commodities, and Things whatsoever, which shall pass out of the said *Birmingham* Canal into the said *Worcester* and *Birmingham* Canal, the Sum of Four-pence *per* Ton; and so in Proportion for a greater or less Quantity than a Ton:

For all Coals or other Minerals, Cokes, Goods, Wares, Merchandise, Commodities, and Things whatsoever, which shall pass out of the said *Worcester* and *Birmingham* Canal into the said *Birmingham* Canal, the Sum of Four-pence *per* Ton; and so in Proportion for any greater or less Quantity than a Ton:

For all Coals or Cokes which shall pass out of the said *Worcester* and *Birmingham* Canal into the said *Birmingham* Canal, and from thence to the Termination of the *Digbeth* Branch of the said *Birmingham* Canal, or to any Part thereof, through any One or more of the Lock or Locks between *Farmers Bridge* and the said Termination, and shall not pass into the *Warwick* and *Birmingham* Canal, the further and additional Sum of Four-pence *per* Ton, and no more; and so in Proportion for any greater or less Quantity than a Ton; which said Sum of Four-pence shall be in full Satisfaction of all Rates or Tolls now payable on such Coals or Cokes passing from *Farmers Bridge* to the said Termination:

For all Coals or Cokes which shall pass out of the said *Worcester* and *Birmingham* Canal into the said *Birmingham* Canal, and shall be landed at or upon any of the Public Wharfs of the said Company of Proprietors of the *Birmingham* Canal now or hereafter to be made, the Sum of Two-pence *per* Ton; and so in Proportion for any greater or less Quantity than a Ton for Wharfage, over and above the said Sum of Four-pence to be paid on passing the said intended Communication:

All which said Tolls and Rates shall be collected at such Place or Places, in such Manner, and under such Regulations, as the said Company of Proprietors of the *Birmingham* Canal Navigations, their Successors and Assigns, shall direct or appoint: Provided always, that the said last-mentioned Rate or Toll of Four-pence *per* Ton shall not be paid for Coals or Cokes which shall pass from *Farmers Bridge* aforesaid into the *Warwick* and *Birmingham* Canal; but that such last-mentioned Coals and Cokes shall be subject and liable to such Rates or Duties only as the said *Birmingham* Canal Company are now or may hereafter be entitled to receive on Coals or Cokes passing from and out of the said *Birmingham* Canal into the said *Warwick* and *Birmingham* Canal.

Toll to be
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IX. Provided also, and be it further enacted, That no further or other Rate or Toll than the said Sum of Four-pence, secondly above mentioned, shall be imposed or paid upon any Coals or Cokes which shall be navigated
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out of the said *Worcester* and *Birmingham* Canal, for passing along any Part of the said *Birmingham* Canal from the intended Communication as far as the Bridge called *Farmers Bridge*, and also through and from the said Bridge upon and along the *Newhall* Branch of the said *Birmingham* Canal Navigations; and if any such last-mentioned Coals or Cokes shall pass Five Miles along the Line of the *Birmingham* Canal towards *Fazeley*, then the above mentioned Rate or Toll of Four-pence *per* Ton, to be paid on passing through any One or more of the said Lock or Locks between *Farmers Bridge* and the Termination of the *Digbeth* Branch, shall be considered and taken in part Payment of the Rates which the said Company of Proprietors of the *Birmingham* Canal Navigations are entitled to collect on Coals or Cokes passing along the Line of the said *Birmingham* Canal towards *Fazeley*.

mers Bridge and the Termination of the Digbeth Branch.

X. And be it further enacted, That the said Lock or Locks, and other Works to be erected and made by virtue of this Act, shall be and be considered and for ever remain as Part of the *Birmingham* Canal Navigations; and that the several Powers, Authorities, Regulations, Restrictions, Exemptions, Privileges, Penalties, Forfeitures, Punishments, Provisions, Clauses, and all other Matters and Things, contained in the said recited Acts of the Eighth, Ninth, Twenty-third, Twenty-fourth, Thirty-fourth, Forty-sixth, and Fifty-first Years of His said present Majesty's Reign, so far as the Nature and Circumstances of the Case will admit, (save and except so much thereof as relate to Exemptions from Stamp Duties, and to the Alteration or Reduction of the Tolls and Dues by this Act imposed, or as are by this Act altered or varied), shall be used and exercised by the said Company of Proprietors of the *Birmingham* Canal Navigations, their Deputies, Agents, Officers, Workmen and Servants, and shall be applied, enforced, and put in Execution for making, completing, preserving, maintaining, and using the said Navigable Communication, and the Works belonging thereto hereby authorized to be made, and for supplying the said Lock or Locks with Water, and also for making, erecting, executing, completing, preserving, and maintaining all such Reservoirs, Locks, Machines, Engines, and all such other Works, Matters and Things, as the said Company of Proprietors shall think necessary and expedient to be erected, made, used, and employed for supporting and maintaining the said Navigable Communication, and for collecting, levying, and enforcing the Payment of the said Tolls and Dues hereby authorized to be taken, in such and the like Manner, and as fully and effectually to all Intents and Purposes, as if the several Powers, Authorities, Limitations, Exceptions, Restrictions, Privileges, Penalties, Forfeitures, Punishments, Provisions, Matters and Things, contained in the said recited Acts of the Eighth, Ninth, Twenty-third, Twenty-fourth, Thirty-fourth, Forty-sixth, and Fifty-first Years of the Reign of His present Majesty, and now in force, were repeated and re-enacted in the Body of this Act, and as if the Navigable Communication, and other Works by this Act authorized and intended to be made, completed, and maintained, had been described in the said Act of the Twenty-third Year of the Reign of His present Majesty, as Part of the Works to be made and done under and by virtue of that Act.

Former Birmingham Canal Acts applicable to the making of the intended Communication.

XI. Provided always, and be it further enacted, That in all Places where the Line of the Works hereby authorized shall be made across any Public Carriage Road, the Ascent to any Bridge to be made over the said Canal,

Regulations when the Works shall pass over any Road.

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for the Purpose of such Road, shall not be more than One Foot in Thirteen, and that a good and sufficient Fence shall be made on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Time limited for the Completion of the Works.

XII. And whereas the whole of the Works hereby authorized to be made may be completed, if not prevented by inevitable Accident, within the Space of Two Years from the passing of this Act, according to an Estimate of the probable Time within which the same may be completed, be it therefore further enacted, That if the said Works intended to be hereby carried into Effect shall not have been completed so as to answer the Objects of this Act, within the Space of Two Years from and after the passing of this Act, all the Powers given by this Act shall from thenceforth cease and become void; save only as to so much of such Works as shall have been completed within the said Space of Two Years.

Compensations to be made by Sums in Gros, and not by annual Sums.

XIII. Provided always, and be it further enacted, That so much of the said recited Acts of the Eighth, Ninth, Twenty-third, Twenty-fourth, Thirty-fourth, Forty-sixth, and Fifty-first Years of His present Majesty's Reign, or any of them, as authorizes or directs any Compensation or Satisfaction to be made for any Lands, Tenements or Hereditaments, purchased, taken, or used for the Purposes of the said recited Acts, or any of them, shall from and after the passing of this Act be, and the same are hereby repealed and made void, and from henceforth that all such Compensations and Satisfactions shall be made by a Sum or Sums of Money in Gros.

Regulation as to Locks between Wolverhampton and the Staffordshire and Worcestershire Canal.

XIV. And be it further enacted by the Authority aforesaid, That from the First Day of *April*, until the Thirtieth Day of *September* inclusive, in every Year, all and singular the Locks now made or hereafter to be made in or upon any Part of the said *Birmingham Canal Navigations*, between *Wolverhampton* and the *Staffordshire and Worcestershire Canal Navigation*, shall be open for the Passage of Boats and other Vessels from Five o'Clock in the Morning until Eight o'Clock in the Evening, without any Interruption whatsoever, except Accidents and necessary Repairs; and that from the First Day of *October*, until the Thirty-first Day of *March* inclusive, in every Year, all and singular the same Locks shall be open for the Passage of Boats and other Vessels from Six o'Clock in the Morning until Six o'Clock in the Afternoon, without any Interruption whatsoever, except as aforesaid; any Law, Bye Law, Regulation, Custom or Usage, to the contrary thereof in anywise notwithstanding.

To prevent the Birmingham Canal Company from drawing the Water from the Wolverhampton Level, below the Depth of Three Feet.

XV. And be it further enacted by the Authority aforesaid, That it shall not be lawful to or for the Company of Proprietors of the *Birmingham Canal Navigations*, their Successors or Assigns, at any Time or Times hereafter, by any Engine or Engines, or other Machine or Machines whatsoever now erected, or at any Time or Times hereafter to be erected, or by any other Means whatsoever, to draw down, or to raise or throw up, any Water from or out of that Part of the present *Birmingham Canal* which leads from or near *Oldbury*, in the County of *Salop*, to the Town of *Wolverhampton*, in the County of *Stafford*, and is commonly called or known by the Name of *The Wolverhampton Level or Pound*, for any Purpose whatsoever, when the Depth of the Water in the said *Wolverhampton*

Level or Pound shall stand less than Three Feet perpendicular, to be reckoned from the Top of the Sill of the Upper Gate of the Lock on that End of the said Level or Pound which is towards *Autherley* in the Parish of *Wolverhampton*, in the said County of *Stafford*; and that the Notch or Mark now made or affixed by the said Company of Proprietors of the *Birmingham* Canal Navigations, at their own Expence, shall for ever hereafter be in like Manner maintained and kept up by them upon the said Upper Gate of the said Lock at the Height of Three Feet perpendicular from the Top of the Sill of the said Gate to denote such Height; and in case the said Company of Proprietors of the *Birmingham* Canal Navigations, their Successors or Assigns, by themselves, their Agents or Servants, or any of them, shall at any Time or Times hereafter draw down, or raise or throw up, any Water from or out of the said *Wolverhampton* Level or Pound when the Depth of the Water in the said Level or Pound shall stand less than Three Feet perpendicular, to be reckoned and ascertained in Manner aforesaid, then and in every such Case, as often as the same shall happen, all the Damages whatsoever which the Company of Proprietors of the *Wyrley* and *Effington* Canal Navigation, their Successors or Assigns, shall or may on that Account sustain shall be settled and allowed by the Commissioners appointed by the said recited Act of the Eighth Year of His present Majesty's Reign, or who may from Time to Time be appointed by virtue of the said recited Act, or any Five or more of them, and shall be paid to the said last-mentioned Company of Proprietors, their Successors or Assigns, within the Space of Fourteen Days next after the same shall have been so settled and allowed, and an Account thereof delivered, and Demand of Payment made, to the Proprietors of the present *Birmingham* Canal Navigations, their Successors or Assigns, or known Agents; and in default of Payment of the Sum or Sums of Money allowed for the said Damages within the Time aforesaid, the said Commissioners, or any Five or more of them, shall and they are hereby empowered and required, by Warrant under the Hands and Seals of any Five or more of them, to levy such Sum and Sums of Money by Distress and Sale of the Goods and Chattels of the said last-mentioned Company of Proprietors, their Successors or Assigns, in or upon the present *Birmingham* Canal or Cuts, and the Wharfs, Quays, and Warehouses adjoining, or near to the same respectively, to and for the Use of the said Company of Proprietors of the *Wyrley* and *Effington* Canal Navigation, their Successors or Assigns; and such Commissioners may moreover, in Manner aforesaid, appoint One or more Person or Persons to receive the Tolls, Rates, and Duties by the said recited Act of the Eighth Year of His present Majesty's Reign granted to the Proprietors of the said *Birmingham* Canal Navigations, of that Part of the present *Birmingham* Canal which leads from or near *Oldbury* to *Autherley*, in the County of *Stafford*, and thereout, in the first Place, pay such Sum or Sums of Money allowed for the said Damages, rendering to the said last-mentioned Company, their Successors and Assigns, or their Agents or Overseers of the said Canal, the Overplus, if any such there be, after deducting the reasonable Charges of making such Distress and Sale, to be settled by the said Commissioners, or any Five or more of them; and after such Sum and Sums of Money, together with the said Costs and Charges, shall be so paid and satisfied, the Power of the said Receiver to be appointed by the said Commissioners shall cease and determine, or otherwise the said Company of Proprietors of the *Wyrley* and *Effington* Canal Navigation, their Successors and Assigns, upon the Failure

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or Neglect of the said Company of Proprietors of the said *Birmingham Canal Navigations*, their Successors or Assigns, to pay the Sum and Sums of Money allowed for the Damages as aforesaid, shall and may have a Remedy against the said last-mentioned Company, their Successors or Assigns, for the Recovery of such Sum and Sums of Money, by Action at Law in any of His Majesty's Courts of Record at *Westminster*, with full Costs of Suit.

Public Act.

XVI. 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.

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