



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

Cap. xlvii.

An Act for making certain Improvements in the River *Severn*, and for amending the Acts relating thereto. [14th *June* 1853.]

WHEREAS an Act was passed in the Fifth Year of the Reign of Her present Majesty, intituled *An Act for improving the Navigation of the Severn, from the Entrance Lock of the Gloucester and Berkeley Canal, and from the Entrance Lock of the Herefordshire and Gloucestershire Canal in the County of Gloucester, to Gladder or Whitehouse Brook in the County of Worcester*, whereby the Commissioners acting in the Execution of that Act were empowered from Time to Time to borrow at Interest, on the Credit of the several Tolls by that Act granted, and on other Property vested in such Commissioners, any Sum of Money not exceeding One hundred and fifty thousand Pounds: And whereas another Act was passed in the Seventh Year of the same Reign, intituled *An Act to alter and extend the Provisions of an Act for improving the Navigation of the River Severn*, whereby the said Commissioners were empowered to borrow at Interest, on the Credit of the said Tolls and other Property, any further Sum of Money not exceeding Thirty thousand Pounds: And whereas another Act was passed in the Session of Parliament held in

[*Local.*] 5 & 6 Vict. c. xxiv.
7 Vict. c. x.
the

*The Severn Navigation Act, 1853.*9 & 10 Vict.
c. ccxci.

the Ninth and Tenth Years of the same Reign, intituled *An Act to alter and extend the Provisions of the Acts for improving the Navigation of the River Severn*, whereby the said Commissioners were empowered to borrow at Interest, on the Credit of the said Tolls and other Property, any further Sum not exceeding Thirty thousand Pounds: And whereas the said Commissioners have borrowed the whole of the Sums so authorized to be borrowed, and have expended the same for the Purposes by the recited Acts authorized, and the same still remain due and owing: And whereas since the passing of the lastly-recited Act the said Commissioners have expended in the Improvement of the Navigation Sums amounting to Seven thousand Pounds and upwards out of the annual Income of the said Commissioners, and some Portion of the Interest on the Sums borrowed under the Powers of the Two lastly-recited Acts has consequently fallen into arrear: And whereas it is expedient that the said Commissioners should be authorized to execute the Improvements of the Navigation of the River *Severn* and other Works herein-after described, and to raise a further Sum of Money, and that the recited Acts should be amended; but the Objects aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Short Titles
of Acts.

I. That in citing the said recited Acts and this Act respectively for any Purpose it shall be sufficient to use the following Expressions; (that is to say,) as to the First of those Acts, the Expression "The *Severn Navigation Act, 1842*;" as to the Second of those Acts, the Expression "The *Severn Navigation Act, 1844*;" as to the Third of those Acts, the Expression "The *Severn Navigation Act, 1846*;" and as to this Act, the Expression "The *Severn Navigation Act, 1853*;" and in referring to the Commissioners for the Time being acting in the Execution of the said recited Acts or of any of them, for any Purpose whatsoever, it shall be sufficient to use the Expression "The *Severn Commissioners*."

As to Execution
of Act.

II. That this Act shall be put into execution by the *Severn Commissioners*.

Certain Pro-
visions of
firstly-re-
cited Act
(5 & 6 Vict.
c. xxiv.) ex-
tended to
this Act.

III. That the following Sections of the herein-before recited Act of the Fifth Year of the Reign of Her present Majesty; (that is to say,)

The Section numbered 21, vesting in the Commissioners Lands purchased, and Buildings, Matters, and Things thereon, Cuts,
Works,

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- Works, Matters, and Things, and the Property in Engines, Implements, Materials, Goods, Articles, and Things ;
- The Sections numbered 22 and 23, relating to Contracts ;
- The Section numbered 24, relating to the Property in Works done under Contracts and in the Materials for the same ;
- The Section numbered 25, relating to the Mode of preferring any Bill of Indictment ;
- The Section numbered 26, exempting the Commissioners from personal Liability ;
- The Sections numbered 35, 36, and 37, relating to the Accountability of Officers and Proceedings against them on failing to account ;
- The Sections numbered 43, 44, 45, 46, 47, 48, and 49, relating to Mortgages and Assignments of Mortgages, and to Registers of Mortgages and Transfers, and to Payment of Interest on Mortgages (except so much of those Sections as prescribe Forms of Mortgages and Transfers) ;
- The Section numbered 50, empowering the Commissioners to borrow Money at a lower Rate of Interest to pay off Securities ;
- The Section numbered 51, prescribing the Mode of paying off Mortgages ;
- The Section numbered 146, for preventing Obstructions or Delay by the Works ;
- The Section numbered 147, relating to Attendance at the Locks ;
- The Sections numbered 158, 159, and 160, relating to the Construction of the Weirs ;
- The Section numbered 184, relating to Assessments for Land Tax or Poor's Rate ;
- The Section numbered 193, prohibiting the Reduction of Rates or Tolls without certain Consents ;
- The Section numbered 198, directing the Application of the Tolls ;
- The Sections numbered 199 and 200, relating to the Reduction and Advancement of the Tolls ;
- The Sections numbered 210, 211, 212, 213, 214, 215, 216, and 217, relating to Byelaws ;
- The Sections numbered 218, 219, 220, and 221, relating to Damage and Obstructions caused by Boats and the weighing of sunken Boats ;
- The Sections numbered 222, 223, 224, 225, 229, 230, 231, 232, 233, 234, 235, and 236, relating to Penalties and Damages, and the Publication, Recovery, and Application of Penalties ;
- The Section numbered 226, relating to Inquiries before Justices ;
- The Sections numbered 227 and 228, relating to the Recovery of Money from the Commissioners and the Reimbursement of their Treasurer ;
- The Section numbered 237, relating to transient Offenders ;

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The Section numbered 238, relating to Forms of Conviction ;
 The Section numbered 239, relating to Informalities in Proceedings ;
 The Sections numbered 240 and 241, relating to Distresses ;
 The Sections numbered 242 and 243, relating to Appeals ;
 The Section numbered 244, exempting the River and Works from
 the Control of any Commissioners of Sewers and from Laws or
 Statutes relating to Sewers ;

The Section numbered 257, being the Interpretation Clause ;
 shall extend and apply to this Act, and the Objects and Purposes
 of this Act, as fully and effectually as if those Sections were re-
 enacted in this Act, with especial Reference to the Objects and Purposes
 of this Act.

Interpreta-
 tion of Terms
 in first-re-
 cited Act to
 apply to this
 Act.

IV. That the several Words and Expressions to which Meanings
 are assigned by the "*Severn Navigation Act, 1842*," shall in this
 Act respectively have the Meanings so assigned to them, unless
 there be something in the Subject or Context repugnant to such
 Construction.

8 & 9 Vict.
 c. 18. incor-
 porated with
 this Act.

V. That "*The Lands Clauses Consolidation Act, 1845*," shall be
 incorporated with this Act.

Description
 of new
 Works.

VI. That, subject to the Provisions of this Act, the *Severn Com-*
missioners may make and maintain the following Improvements and
 Works ; (that is to say,)

The Improvement of the Navigation of the River *Severn*, from or
 from near a Point called the *Upper Lode*, in the Parishes of
Tewkesbury and *Forthampton* in the County of *Gloucester*, and
 in the Parish of *Bushley* in the County of *Worcester*, to *Diglis*
Severn Works in the Parishes of *Saint Peter the Great* and
Saint John in Bedwardine in the County of *Worcester*, by
 means of the Works herein-after specified ;

A Dam across the said River at the *Upper Lode* aforesaid ;

A new Cut or Channel for the said River across the *Tewkesbury*
Ham, commencing by a Junction with the present Channel of the
 River *Severn*, in the Parish and Borough of *Tewkesbury*, and
 terminating by a Junction with the present Channel of the said
 River, in the same Parish and Borough, together with a Weir and
 Two Locks thereon, and the Diversion through the said new Cut
 or Channel of the Waters of the River *Severn* ;

A Towing-path from the North Side of the said River in the said
 Parish of *Bushley*, near the *Upper Lode* aforesaid, to join the
 existing Towing-path on the West Side of the said River in the
 said Parish of *Forthampton* ;

All necessary Locks, Dams, Sluices, Bridges, Drains, Culverts,
 Embankments, and other Works and Conveniences in connexion
 with

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with, or for the Purposes of the Works aforesaid, or any of them.

VII. And whereas Plans and Sections of the intended Works, showing the Lines and Levels thereof respectively, and the Limits within which the same are to be constructed, and also Books of Reference containing the Names of the Owners, Lessees, and Occupiers, or reputed Owners, Lessees, and Occupiers of the Lands in or through which the same respectively are intended to be made or pass, have been deposited with the Clerks of the Peace for the Counties of *Gloucester* and *Worcester* respectively: Therefore, with the Powers and subject to the Provisions of this Act and the incorporated Act, the *Severn* Commissioners may make and maintain the said intended Improvements and Works respectively in the Lines and within the Limits of Deviation delineated on the said Plans, and according to the Levels shown by the said Sections, and upon the Lands delineated upon the said Plans, and described in the said Books of Reference; and may also, in the Lines and within the Limits aforesaid, make and maintain such Locks, Dams, Sluices, Bridges, Drains, Culverts, Embankments, and other Works and Conveniences as they may think necessary for the Purposes of the said intended Improvements and Works; and may enter upon, take, and use such of the said Lands as shall be necessary for the Purposes aforesaid.

Works to be made according to deposited Plans, &c.

VIII. That the Powers of the *Severn* Commissioners for the compulsory Purchase of Lands for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for compulsory Purchase of Lands limited.

IX. That on the Expiration of Five Years from the passing of this Act, the Powers by this Act granted to the *Severn* Commissioners for executing the Improvements and Works shown on the said Plans or otherwise in relation thereto shall cease to be exercised, except as to so much of the said Improvements and Works as shall then be completed.

Period for Completion of Works.

X. That if any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands described on the said Plans, or in the said Books of Reference, the *Severn* Commissioners, after giving Ten Days Notice to the Owners, Lessees, and Occupiers of the Lands affected by such proposed Correction, may apply to Two Justices for the Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, Mis-statement, or

Errors and Omissions may be corrected by Justices, who shall certify the same.

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Certificate to be deposited.

erroneous Description; and such Certificate shall be deposited with the Clerks of the Peace of the Counties of *Worcester* and *Gloucester*, and shall be kept by such Clerks of the Peace respectively along with the Plans or Books of Reference to which it relates, and thereupon such Plans or Books of Reference shall be deemed to be corrected according to such Certificate; and it shall be lawful for the *Severn* Commissioners to execute the Works in accordance with such Certificate as if such Omission, Mis-statement, or erroneous Description had not been made.

Copies of Plans, &c. to be Evidence.

XI. That true Copies of such Plans and Books of Reference, and of any Correction thereof, or Extracts therefrom, certified by any such Clerk of the Peace, which Certificate such Clerk shall give to all Parties interested when required, shall be received in all Courts of Justice and elsewhere as Evidence of the Contents thereof.

Power to deviate from the Line laid down in deposited Plan.

XII. That the *Severn* Commissioners in making the said Improvements and Works may deviate from the Lines thereof delineated in the Plans so deposited with the Clerks of the Peace as herein-before mentioned; provided that no such Deviation shall extend to a greater Distance than One hundred Yards, nor beyond the Line of Deviation marked upon such Plans, nor into the Lands or Property of any Person whose Name is not mentioned in the said Books of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in the Manner herein-before provided.

Commissioners may relinquish Part of existing Channel.

XIII. That upon the Completion of the intended new Cut or Channel the *Severn* Commissioners may discontinue the Use for Purposes of Navigation, and may relinquish the Maintenance, of so much of the present Course or Channel of the River *Severn* as may be rendered unnecessary by the Construction of the intended Cut or Channel.

As to Towing-path.

XIV. And whereas the Towing-path so to be made as aforesaid will supersede a Portion of the Towing-path now belonging to the Company of Proprietors of the *Gloucester and Worcester* Horse Towing-path: Be it therefore enacted, That the Towing-path so to be made as aforesaid shall be and be deemed to be a Towing-path in lieu of and in substitution of the Portion of the existing Towing-path so to be superseded as aforesaid.

Plans of Works below Diglis to be deposited for

XV. That previously to commencing the Weir or any Works under this Act below *Diglis* the Commissioners shall deposit at the Admiralty Office Plans, Sections, and Working Drawings of the said Weir and

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and Works, and of any Works connected therewith, for the Approval of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty, and such Weirs and Works connected therewith shall be constructed only in accordance with such Approval.

Approval of the Admiralty.

XVI. That if any Work which has already been or which hereafter may be executed or constructed by the *Severn* Commissioners in, under, over, or across, or affecting the River *Severn*, or any tidal Water or navigable River, or any Portion of any such Work, shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the *Severn* Commissioners, and the Amount thereof shall be a Debt due from the *Severn* Commissioners to the Crown, and be recoverable accordingly, with Costs of Suit.

Works affecting tidal Waters abandoned may be removed by the Admiralty at Expense of Commissioners.

XVII. That the *Severn* Commissioners may from Time to Time borrow at Interest, on the Credit of the Tolls by the recited Acts granted, any further Sums of Money (in addition to the said Sum of Two hundred and ten thousand Pounds) not exceeding in the whole the Sum of Fifty-three thousand Pounds; and in the event of any Part of such Sums of Money being repaid by the said Commissioners, may reborrow the same, and so *toties quoties*, but so nevertheless that there shall not be owing on the Security of the said Tolls any more than the Sum of Two hundred and sixty-three thousand Pounds in the whole at any One Time; and for securing the Repayment of the Monies so borrowed, with Interest, the said Commissioners or any Five or more of them may mortgage the said Tolls; and all Mortgages or Transfers to be made pursuant to this Act may be in the respective Forms contained in the Schedule to this Act annexed, or to the like Effect.

Power to borrow additional Monies on Mortgage.

XVIII. That the *Severn* Commissioners shall apply the Sum of Seven thousand Pounds of the Monies authorized to be borrowed under the Provisions of this Act in or towards the Discharge of any Arrears of Interest which may be due at the Time of the passing of this Act, and the Residue of the Monies authorized to be borrowed under the Provisions of this Act shall be applied for or towards the Purposes of the recited Acts and this Act only.

Application of Monies borrowed.

XIX. That

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Mortgages under this Act to be without Preference.

XIX. That all Persons to whom any Mortgages shall be made under the Powers of this Act, or who shall be entitled to the Monies thereby secured, shall be entitled one with another to their respective Proportions of the Tolls, Sums, and Premises comprised in such Mortgages, according to the respective Sums in such Mortgages respectively mentioned to be advanced by such Mortgagees respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another in respect of the Priority of advancing such Monies, or of the Date of any such Mortgage, or of the Meeting at which the same was authorized.

Mortgages, &c. to be stamped.

XX. That every Mortgage to be made by virtue of this Act, and every Transfer of any such Mortgage, shall be by Deed duly stamped, wherein the Consideration for the same shall be truly stated.

Former Mortgages to have Priority.

XXI. That all Mortgages granted by the *Severn* Commissioners before the passing of this Act, and which shall be in force at the Time of the passing of this Act, shall have Priority over all Mortgages granted under the Powers of this Act.

Owners to put their Names on Outside of Boats.

XXII. That the Owner of every Boat navigating the River *Severn* or any Part thereof between *Gledder* or *Whitehouse Brook* and the Entrance Locks of the *Gloucester and Berkeley Canal* and the *Herefordshire and Gloucestershire Canal* shall cause his Name and Place of Abode to be painted or affixed in large Capital Letters, Two Inches high at the least, and of a proportionate Breadth, on some conspicuous Part of the Outside of such Boat, so as to be always open to View; and every Owner, Master, or Person having the Care, Charge, or Management of any Boat passing upon any Part of the said River between the Limits aforesaid shall upon Demand, and whenever demanded by any Officer of the *Severn* Commissioners, permit and suffer every such Boat to be gauged, weighed, or measured, at the Expense of the said Commissioners, by any Person appointed for that Purpose, at such Place on the said River or Works of the *Severn* Commissioners as shall be appointed by them for such Purpose; and that the Person so appointed to gauge, weigh, and measure any such Boat shall from Time to Time enter in a Book to be kept for that Purpose the Particulars of the Measurement and Weight thereof, and shall also, at the Expense of the *Severn* Commissioners, affix on such Boat an Iron or other Metal Plate containing the Gauge Number thereof; and every Owner or other Person having the Care of any Boat who shall conduct the same along the said River or any Part thereof without having such Name and Place of Abode thereon as aforesaid, or who shall alter, erase, or deface the same, or shall paint or affix thereon any false Name and Place of Abode, or who shall remove, deface, or destroy such Plate or Number, or shall fix any false Plate thereon, or shall do or permit any other Act whereby
the

Boats, &c. to be gauged, weighed, and indexed.

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the Plate or Gauge Number of such Boat shall be altered, without previous Notice given thereof to the *Severn* Commissioners, or who shall refuse to permit the same to be gauged, measured, or weighed, shall upon Conviction forfeit and pay for every such Offence any Sum not exceeding Five Pounds, to be sued for and recovered in the Manner directed by the said first-recited Act with respect to the Penalties thereby imposed; and the Service of any Summons or other Proceedings as therein provided shall be sufficient for the Purpose of recovering the Penalties hereby imposed, and One Half such Penalties shall go to the *Severn* Commissioners and the other Half thereof shall go to the Informer or other Person who shall sue for the same; and the Conviction for any Offence against this Act may be in the Form in the Schedule (F.) in the said first-recited Act contained, the Figures 1853 being substituted for 1841.

XXIII. That the Costs, Charges, and Expenses attending the soliciting, obtaining, and passing this Act shall be paid by the *Severn* Commissioners. Expenses of Act.

XXIV. And whereas by the "*Severn* Navigation Act, 1842," certain Councils, Inhabitants, and Companies of Proprietors, named in the Schedule (A.) to the said Act annexed, were respectively empowered to elect Persons to be Commissioners for carrying the said Act into execution: And whereas by the said last-mentioned Act it was enacted, that if any Question should be discussed in which any Commissioner should be interested in any other Manner than as a Commissioner, such Commissioner should not be entitled to vote upon that Question; and if the Commissioner for the Time being in the Chair should be so interested, then during the Discussion of that Question, but no longer, he should leave the Chair, and during such Discussion the Chair should be taken by any other Commissioner to be appointed for that Purpose: And whereas it is expedient that the lastly herein-before recited Enactment should be repealed, and that other Provisions should be made in lieu thereof: Be it therefore enacted, That the lastly herein-before recited Enactment shall be and the same is hereby repealed. Provision of 5 Vict. c. 24., as to voting of Commissioners who shall be interested, repealed.

XXV. That no Commissioner shall be disqualified from voting upon or being Chairman during the Discussion of any Question by reason of his having an Interest therein as a Commissioner, or as One of the respective Councils, Proprietors, or Inhabitants, mentioned in the Schedule (A.) annexed to the *Severn* Navigation Act, 1842, or as a Shareholder in any or either of the Companies mentioned in that Schedule, or as being One of the Justices of the Peace mentioned in the said Schedule; but if at any Meeting of the *Severn* Commissioners, or of a Committee of their Number, any Question shall be Nature of Interest in Commissioners which shall disqualify from voting or being in the Chair.

[Local.]

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discussed

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discussed in which any Commissioner shall have any further or other Interest than as last aforesaid, such Commissioner shall not be entitled to vote upon that Question; and if the Commissioner for the Time being in the Chair shall have any further or other Interest than as aforesaid, then during the Discussion of that Question, but no longer, he shall leave the Chair, and during such Discussion the Chair shall be taken by any other Commissioner not so disqualified, who shall be then and there elected and appointed for that Purpose.

Act not to affect Guarantees of Staffordshire and Worcestershire Canal.

XXVI. And whereas an Act was passed in the Session of Parliament held in the Sixth and Seventh Years of Her Majesty's Reign, intituled *An Act to enable the Company of Proprietors of the Staffordshire and Worcestershire Canal Navigation to lend certain Sums of Money to the Commissioners for the Improvement of the Navigation of the River Severn, and to guarantee the Repayment of the Amount of any Loans which any other Persons or Bodies shall make to such Commissioners, and to guarantee the Performance of Contracts into which such Commissioners shall enter; and to borrow Money for such Purposes*: Be it enacted, That neither the Powers hereby given for borrowing a further Sum of Money, nor any Provision or Matter herein contained, shall in anywise affect the Powers or Liabilities of the Company of Proprietors of the *Staffordshire and Worcestershire Canal Navigation*, or their Committee, under the said last-mentioned Act, or any Contract or Guarantee which have been or shall be made or given under the Authority of that Act, or in anywise release the said Company of Proprietors from the Liability under which, if this Act had not been passed, they would have been by reason of any Contract or Guarantee already made or given or hereafter to be made or given under the Authority of that Act.

Commissioners not to be exempt from any Act relating to Merchant Shipping.

XXVII. That nothing in this or the recited Acts contained shall be deemed or construed to exempt the *Severn Commissioners* from the Provisions of any General Act relating to Merchant Shipping now in force, or which may hereafter pass during this or any future Session of Parliament.

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The SCHEDULE referred to in this Act.

Form of Mortgage Deed.

The Severn Navigation Commission.

Mortgage, No.

By virtue of the "Severn Navigation Act, 1853," we the "Severn Commissioners," in consideration of the Sum of _____ Pounds paid to us by *A.B.* of _____ do assign unto the said *A.B.*, his Executors, Administrators, and Assigns, all the Tolls and Sums of Money arising by virtue of the "Severn Navigation Act, 1842," and all the Estate, Right, Title, and Interest of the said Commissioners in the same, to hold unto the said *A.B.*, his Executors, Administrators, and Assigns, until the said Sum of _____ Pounds, together with Interest for the same at the Rate of _____ Pounds for every One hundred Pounds by the Year, computed from the Day of the Date hereof, be satisfied, the Principal Sum to be repaid at the End of _____ Years from the Date hereof [*in case any Period be agreed on for that Purpose*].

Given under our Hands and Seals, this _____ Day of _____ in the Year of our Lord One thousand eight hundred and _____

Form of Transfer of Mortgage.

I *A.B.* of _____ in consideration of the Sum of _____ Pounds paid to me by *G.H.* of _____ do hereby transfer to the said *G.H.*, his Executors, Administrators, and Assigns, a certain Mortgage, Number _____ made by the Severn Commissioners under the Authority of the "Severn Navigation Act, 1853," to the said _____ bearing Date the _____ Day of _____ for securing the Sum of _____ Pounds and Interest [*or, if such Transfer be by Endorsement, the within Security*], and all my Right, Estate, and Interest to the Money thereby secured, and in and to the Tolls or Sums of Money thereby assigned. In witness whereof I have hereunto set my Hand and Seal this _____ Day of _____ One thousand eight hundred and _____

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