ANNO TRICESIMO TERTIO

# Georgii III. Regis.

## CAP. CII.

An Act for making and maintaining a Navigable Canal from the River *Trent*, at or near *Swarkſtone Bridge*, to and through the Borough of *Derby* to *Little Eaton*, with a Cut out of the ſaid Canal in or near the ſaid Borough, to join the *Erewaſh* Canal near *Sandiacre*; and for making Rail Ways from ſuch Canal to ſeveral Collieries in the Pariſhes or Liberties of *Denby*, *Horſley*, and *Smalley*, all in the County of *Derby*. [7th *May* 1793.]



WHEREAS the making and maintaining a Canal for the Navigation of Boats, Barges, and other Veſſels, from the River Trent, near Swarkſtone Bridge, in the Pariſh of Swarkſtone, in the County of Derby, to and through the Liberty of the Borough of Derby, to Little Eaton in the County of Derby, with a Branch or Cut out of the ſaid Canal in or near the ſaid Borough of Derby, to join the Erewaſh Canal near Sandiacre, in the ſaid County; Preamble.

ty; and the making and maintaining Rail Ways or Stone Roads, as herein-after mentioned, for the Paſſage of Waggons and other Carriages from ſuch Cut or Canal, will open an eaſy Communication with ſeveral valuable Mines of Coal, Lime, Iron, Lead, and other Minerals, will greatly facilitate the Carriage of various Articles of Merchandize, and in other Reſpects be of great publick Utility: But the ſame 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 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 Philip Earl of Cheſterfield, Charles Earl of Harrington, Nathaniel Lord Scarſdale, Peniſton Lord Viſcount Melborne in the Kingdom of Ireland, Sir Robert Burdett, Sir Henry Harpur, Sir Robert Mead Wilmot, Sir Robert Wilmot, Sir John Borlace Warren, Baronets; Francis Agard, William Alleſtry, William Antill, Mary Almond ſenior, Robert Adams, Robert Battelle, George Banton, Charles Barnes, Edward Boſtock, Thomas Boſtock, John Borrow, Thomas Borrow, Fletcher Bullivant, John Brooke, James Boot, Francis Bruckfield, John Broadhurſt, Charles Burton, John Bateman, Thomas Barber, John Buxton, Gervas Bancroft, William Briggs, John Bingham, Thomas Bainbrigge, Hannah Beard, John Bramley, Mary Bowmer, Hugh Bateman, Francis Birch, Burton School Truſtees, Thomas Barker, Gilbert Brown, William Bailey, John Brown, Samuel Brown, Jonathan Boſtock, Joſeph Bryer, William Bailey, John Bealy, Thomas Brown, Charles Blomar, Henry Browne, Nathaniel Gooding Clarke, John Chatterton junior, William Cox junior, Edward Cater, Thomas Cox, Edward Soreſby Cox, Daniel Parker Coke, Thomas Clarke, James Cade, the Reverend Joſeph Collier, Charles Callow, William Collumbell, John Clarkſon, Joſeph Clarke, John Chamberlin, George Cheatham, Mary Cockayne, William Cooper, Sarah Chamberlin, Job Clarke, William Cooper, Thomas Cooper, John Campion, Thomas Dummelow, the Truſtees of Edward Dawſon, Arthur Drinkwater, Mathew Stanfield Dalby, William Davis, William Dueſbury, Samuel Dudley, the Reverend Richard Dodſley, John Dethick, Edward Dawſon, William Evans, Thomas Evans, Nathaniel Edwards, William Eaton, Sarah Edgar, William Edwards, Edward Fox, Henry Fox, Samuel Fox, Francis Fox, Leonard Foſbrooke, the Reverend Walter Fletcher, Richard Frignall, Vincent Fletcher,

Proprietors.

Francis Fiſher, William Fillingham, Joſeph Follows, James Ford, John Fellows, John Gaudin, Robert Charles Greaves, Thomas Grime, Bryan Grey, John Goodall, John Goodwin, Henry Greatorex, George Gregory, Robert Grayſon, the Reverend Charles Holden, John Holliday, John Harriſon, Abraham Hoſkins, George Hardy, Richard Holland, Frances Handley, Joſeph Howton, William Harriman, Benjamin Harrington, John Hawley, Edward Hollingſhead, Thomas Hefford, Henry Hadley, James Hewitt, Thomas Haſlen junior, Henry Hunter, Matthew Howe, Samuel Houghton junior, William Holliwell, Joſeph Holmes, John Hopkinſon, John Hunt, William Harriſon, Samuel James, the Reverend Nathaniel Palmer Johnſon, Francis Jeſſopp, Thomas Jowett, Robert Jowett, Mary Jerram, Stephen Jones, Richard Johnſon, William Brooks Johnſon, Robert Johnſon, Marſhall Killer, Samuel Keys, Ann Kirk, John Keeling, Thomas Kirk, William Jeffery Lockett, William Drury Lowe, Daniel Lowe, William Lygon, John Leacroft, Thomas Leacroft, John Lalouel, John Lancaſhire, Thomas Lakin, the Reverend William Lawſon, John Matchitt, John Marſhall, Edward Miller Mundy, William Mansfield, the Reverend Thomas Manlove as Truſtee of Spondon Poor, Henry Meakin, John Meynell, Thomas Moor, John Marſden, William Nadin, Richard Newton, James Oſborne, William Oſborne, Joſeph Oſborne, Thomas Olderſhaw, Sarah Oſborne, James Potter, Richard Phillips, James Phillips, Benjamin Pounſey, Thomas Pares, William Pickering, Henry Pratt, John Parker, John Radford, Henry Richardſon, George Richardſon, Francis Radford, Francis Radford, Thomas Edward Radford, the Reverend Thomas Rivett, Ambroſe Rotton, Samuel Richardſon, William Richardſon ſenior, Benjamin Radford, Catharine Rowley, Joſeph Roe, Samuel Rowland, Hannah Radford, Thomas Radford, the Reverend Joſeph Smith, Thomas Saxelbye, William Strutt, Samuel Saliſbury Shaw, William Snowden, John Sutton, Joſeph Sikes, William Soar, David Stenſon, Richard Smith, Joſeph Smith, the Reverend Henry Swindell, James Sanders, Suſanna Stephens, Richard Storer, George Sowter, William Sanders, the Reverend William Bagſhaw Stevens, Joſeph Stenſon, Thomas Sale, Joſeph Sanders, William Surguy, George Sneeſby, Joſeph Thacker, John Thrutchley, Thomas Tempeſt, Thomas Thompſon, John Tuft, Charles Upton, John Vickors, William Vicars, Francis Wilmot, William White, Joſeph Wilkes, George Wooton, William Wright, George Wheeldon, William Woollatt, Elizabeth Wood, Anthony Weſton, Mary Wynne, Elizabeth Woodward, Thomas Wright, Ann Williamſon, James Wilder,

Samuel Williams, John Clarke Wayte, Thomas Wyer, Gregory Winrow, Edward Ward, William Ward, William Wright, and the Reverend Benjamin Ward, and their ſeveral and reſpective Succeſſors, Executors, Adminiſtrators, and Aſſigns, together with ſuch Perſon or Perſons as ſhall, at any Time hereafter, be poſſeſſed of One or more Share or Shares in the ſaid intended Navigation, in Manner herein-after mentioned, ſhall, and they are hereby united into a Company, for the better carrying on, making, completing, and maintaining the ſaid Canal and Cut, and the ſaid Rail Ways or Stone Roads, according to the Rules, Orders, and Directions herein-after mentioned and expreſſed, and ſhall for that Purpoſe be One Body Politick and Corporate, by the Name of The Derby Canal Company, and by that Name ſhall have perpetual Succeſſion and a Common Seal, and ſhall ſue and be ſued, and ſhall have Power and Authority to purchaſe Lands, Tenements, or Hereditaments to them, their Succeſſors and Aſſigns, for the Uſe of the ſaid Undertaking, and alſo to ſell and diſpoſe of any of the ſaid Lands, Tenements, and Hereditaments ſo purchaſed, without incurring any of the Penalties or Forfeitures of the Statutes of Mortmain; and that it ſhall be lawful for the ſaid Derby Canal Company, and they are hereby accordingly impowered, by themſelves, their Deputies, Agents, Officers, Workmen, and Servants, to make, complete, and keep navigable and paſſable for Boats, Barges, and other Veſſels, a Canal from the River Trent, near to or on the Weſt Side of Swarkſtone Bridge, in the Pariſh of Swarkſtone, in the ſaid County of Derby, into, along, and acroſs a certain navigable Canal, commonly called The Trent and Merſey Canal, to and through the Liberty of the Borough of Derby, to a Place called Little Eaton, in the Pariſh of Saint Alkmund, in Derby; and alſo a Branch or Navigable Cut out of the ſaid Canal, for the Paſſage of Boats, Barges, and other Veſſels, from or near to the ſaid Borough of Derby, to join and communicate with a certain Navigable Canal, called The Erewaſh Canal, at or near Sandiacre, in the ſaid County of Derby; and alſo to make and maintain a Rail or Waggon Way, or Stone Road for the Conveyance of Coal, Iron, Iron Stone, Lead Ore, Lime Stone, and other Articles, in Carriages or Vehicles to be properly conſtructed for that Purpoſe, from the Termination of the ſaid Canal at Little Eaton aforeſaid, or from ſome Place near thereto, to or near a certain Place in the Pariſh of Denby, in the ſaid County of Derby, called Smithy Houſes; and alſo to make and

Proprietors united into a Company.

To be a Body Politick.

Power to purchaſe Lands.

Rail Way to the *Smithy Houſes*.

maintain another Rail or Waggon Way, or Stone Road, for the like Purpose, from and out of the last mentioned Rail or Waggon Way, at or near Coxbench, in the said County of Derby, to or near a Place in the Liberty of Smalley, in the Parish of Morley, in the said County of Derby, called Smalley Mill; and also from Time to Time to make and maintain such other Rail Ways or Stone Roads from the said Canal, Cut, Rail Ways, or Stone Roads already described, and hereby authorized to be made, to any Coal Mines, Stone Quarries, and Iron Works, already or hereafter to be established within the Distance of Two thousand Yards from the said Canal or Cut, or from the said Rail Ways or Stone Roads hereby authorized to be made, or from any Part thereof respectively, as the said Derby Canal Company shall think proper, and direct to be made; and the said Derby Canal Company are hereby also impowered, by themselves, their Deputies, Agents, Workmen, or Servants, to supply the said Canal and Cut, and the Reservoirs belonging thereto, whilst the same shall be making, and at all Times for ever after the same shall be made, with Water from all such Springs as shall be found in making the same, and from the River Derwent, and from all Brooks and Streams which shall be found within the Distance of Two thousand Yards from the said Canal or Cut, or any Part thereof respectively, (subject nevertheless to the Restrictions herein-after contained), and to cleanse, scour, deepen, enlarge, or straighten any such Rivers, Brooks, Streams, or Watercourses, or others which may flow and be brought into the said Canal or Cut, and also to make One or more Reservoir or Reservoirs for the Purpose of supplying the said Canal and Cut with Water, and to make such and so many Feeders and Aqueducts, and to make, erect, and set up such and so many Weirs, Engines, and other Machines, for supplying the said Canal and Cut with Water, and for conveying Water from any such Reservoir or Reservoirs to the said Canal and Cut, or any Part thereof respectively, or for any other Purpose necessary for the better making and maintaining of such Canal and Cut, as the said Derby Canal Company shall think proper and expedient, and for the several Purposes aforesaid to enter into and upon the Lands and Grounds of or belonging to any Person or Persons, Bodies Politick, Corporate, or Collegiate whatsoever, and to survey and take Levels of the same, or any Part thereof, and to set out and ascertain such Part or Parts thereof as the said Derby Canal Company shall think necessary and proper

Rail Way to *Smalley Mill.*

To make other Rail Ways to Collieries, &c.

General Powers for effecting the Purposes of this Act.

proper for making, completing, maintaining, improving, and using the said Canal and Cut, Rail Ways, or Stone Roads, and other Works and Conveniencies hereby authorized to be made, and there to bore, dig, cut, trench, and sough, and also to remove, get, carry away, and take, any Earth, Clay, Stone, Soil, Rubbish, Trees, Roots of Trees, Beds of Gravel or Sand, or any other Matters or Things whatsoever, which shall or may be dug or got in making, or which may hinder or obstruct the making, carrying on, maintaining, or repairing, the said Canal, Cut, Reservoirs, Rail Ways, or Stone Roads, and other Works respectively, or such Feeders, Trenches, Passages, Aqueducts, and Watercourses, as shall or may be necessary and proper to convey Water to or from the said Canal and Cut, and Reservoirs respectively, according to the true Intent of this Act; and also to make, build, erect, and set up, in or upon the said Canal and Cut, Railways or Stone Roads respectively, or in or upon the Lands adjoining or near thereto respectively, (the Lands belonging to the Holmes Mills excepted), such and so many Bridges, Tunnels, Aqueducts, Sluices, Locks, Floodgates, Weirs, Pens for Water, Water Stanks, Reservoirs, Drains, Wharfs, Quays, Toll Houses, Warehouses, Watch Houses, Landing Places, Weighing Beams, Cranes, Dry Docks, Fire Engines, or other Machines, Ways, Roads, and Conveniencies, as and where they the said Derby Canal Company shall think requisite and convenient, and from Time to Time to alter, repair, and amend, or discontinue the same, as shall be thought necessary and useful for the Purposes of the said Navigation and Undertaking, and for the carrying and conveying of Goods, Wares and Merchandizes, and other Things, to and from the said Canal, Cut, Rail Ways, or Stone Roads respectively, and for the carrying and conveying of all Manner of Materials necessary for the making, erecting, finishing, altering, repairing, amending, widening, or enlarging the said Canal and Cut, Rail Ways or Stone Roads, and other Works respectively, and to place, lay, work, or manufacture any Materials on the Lands or Grounds near to the Place or Places where the said Works, or any of them, shall be carrying on (except as aforesaid); and also from Time to Time to make, maintain, and repair any Fences, and turn, divert, and alter any Roads or Passages leading to, over, or under the said Canal, Cut, Rail Ways, or Stone Roads respectively, or the Tunnels, Aqueducts, Soughs, Trenches, Gutters, Watercourses and Sluices respectively, which

shall communicate with such Canal and Cut; and also to make, set out, and appoint such Towing Paths, Banks, Roads and Ways, for the towing, haling, or drawing of Boats, Barges, or other Vessels, passing in, through, or upon the said Canal or Cut, with Men, Horses, or otherwise, and such convenient Places for Boats, Barges, and other Vessels to turn, lie in, or pass each other, as the said Derby Canal Company shall think proper and expedient; and also to dig, search for, get, take, and carry away any Soil, Clay, Gravel, or Stone, which shall be proper and requisite for the carrying on, repairing, and maintaining the several Works aforesaid, or any of them, in, from, or out of the Lands or Grounds of any Person or Persons adjoining or lying convenient thereto, (except as aforesaid); and also to construct, erect, set up, make, and do all or any other Works, Matters, and Things whatsoever, which they shall think necessary and requisite for the making, carrying on, completing, repairing, improving, maintaining, and using the said Canal and Cut, Rail Ways, or Stone Roads respectively, according to the true Intent and Meaning of this Act, they the said Derby Canal Company, and their several Agents, Servants, and Workmen, doing as little Damage as may be in the Execution of the several Powers hereby granted to them, and from Time to Time making Satisfaction in the Manner herein-after mentioned to the Owners or Proprietors of, or the Persons interested in the Lands, Grounds, Stone Quarries, Tenements, or Hereditaments, Waters, Watercourses, Brooks, or Rivers respectively, which shall or may be taken, used, removed, directed, or prejudiced for the Purposes aforesaid, for all Stone or other Materials which shall be taken or used for the Purposes aforesaid, and for all other Damages by them sustained in Consequence of the Execution of the Powers hereby given.

No Stone to be taken from *Horsley Castle Hill*, without Consent of the Earl of *Chesterfield*.

II. Provided always, and be it further enacted, That this Act shall not authorize or impower the said Derby Canal Company, their Agents, Servants, or Workmen, to get, dig, take, or carry away, for any Purpose whatsoever, any Stone from any Part of Horsley Castle Hill, without the Consent of the Right Honourable Philip Earl of Chesterfield, his Heirs or Assigns, for that Purpose first had and obtained.

Rail Way to be made from *Horsley* Colliery, if required by the said Earl.

III. And whereas a Colliery is intended to be soon opened and worked upon some Part of the Real Estate of the said Philip Earl of Chesterfield, at or near Horsley in the said County of Derby; be it therefore enacted, That the said Derby Canal Company shall, and they are

hereby required, when the said intended Colliery shall be opened and worked, upon Application made to them for that Purpose by the said Philip Earl of Chesterfield, his Heirs or Assigns, or his or their Bailiff, Steward, or Agent, to make or cause to be made a good substantial Rail or Waggon Way, not exceeding One Mile in Length, branching either out of the said Rail Way or Stone Road herein-before directed to be made to the Smithy Houses, or out of the said Rail Way or Stone Road herein-before directed to be made to Smalley Mill, at the Discretion of the said Earl of Chesterfield, his Heirs or Assigns, the Rails to be made of good and sound Heart of Oak, of the Dimensions of Six Inches by Four, and in such convenient Direction to the said intended Colliery, as shall be agreed upon by the said Philip Earl of Chesterfield, his Heirs or Assigns, or his or their Bailiff, Steward or Agent, and an Engineer to be appointed for that Purpose by the said Derby Canal Company, or their Committee for the Time being, which said Rail Way shall be so made for the sole and exclusive Use of the said Philip Earl of Chesterfield, his Heirs and Assigns, and shall be maintained and kept in Repair by him or them.

IV. Provided always, That in case the said Rail Way so to be made as aforesaid shall at any Time hereafter be deemed by the said Earl of Chesterfield, his Heirs or Assigns, of no further Use, and shall not be made Use of for the Convenience of the said intended Colliery, it shall and may be lawful to and for the said Earl of Chesterfield, his Heirs and Assigns, to take up and remove the same, and apply the Wood, and other Materials of which it shall be made, to his and their own Use and Benefit.

Rail Ways over Lord *Chesterfield*'s Lands to be fenced off.

V. And be it further enacted, That the said Derby Canal Company shall, upon Application made to them for that Purpose by the said Philip Earl of Chesterfield, his Heirs or Assigns, at their own proper Costs and Charges, divide and separate the said Rail Ways or Stone Roads, herein-before directed to be made to Smithy Houses and Smalley Mill, as far as the same respectively shall extend over the Estate of the said Earl of Chesterfield at Horsley aforesaid, from the Lands and Grounds adjoining or lying on each Side of the said Rail Ways, or Stone Roads, or either of them, with good and sufficient Posts, Rails, Hedges, Ditches, or other Fences, as the said Earl of Chesterfield, his Heirs or Assigns, or his or their Agent or Steward, shall direct; and shall also at their own Costs and Charges make, erect, and set up such and so many convenient Gates and Stiles in the Hedges and Fences so

to be by them made on the Sides of the said Rail Ways or Stone Roads, and such other Gates and Stiles in each and every Hedge which shall be crossed by the said Rail Ways or Stone Roads, as far as the same respectively shall extend over the Estate of the said Earl of Chesterfield at Horsley aforesaid; and shall also at their own Expence make such Arches, Culverts, and Drains under the said Rail Ways or Stone Roads, in the said Estate at Horsley aforesaid, as shall be sufficient to convey the Water draining from the upper Side thereof, without obstructing or impeding the same, of such Dimensions, and in such Situations, as the said Earl of Chesterfield, his Heirs or Assigns, or his or their Bailiff, Agent, or Steward, shall think necessary and direct; which said Fences, Hedges, Ditches, Gates, Stiles, Culverts, and Drains shall at all Times after the same shall be made, be maintained and kept in Repair by the said Derby Canal Company.

In Default the same may be done by him, and the Expence paid by the Company.

VI. And be it further enacted, That in case the said Derby Canal Company shall fail or neglect to make or cause to be made the said Rail or Waggon Way, in the Estate of the said Philip Earl of Chesterfield at Horsley aforesaid, or to make such Arches or Culverts under the same, or to fence, divide and separate the said Rail Ways or Stone Roads, or any of them, from the Lands lying on each Side thereof; and to make such Stiles and Gates in such Fences, at the Times and in the Manner herein-before directed for that Purpose, or to maintain and support such Gates, Stiles, Fences, Arches, or Culverts, or any Part thereof, when made as aforesaid; it shall and may be lawful to and for the said Philip Earl of Chesterfield, his Heirs or Assigns, or his or their Agents, Servants, or Workmen, to make such Rail or Waggon Way, and such Arches or Culverts under the same, and to fence, divide, and separate all the said Rail Ways or Stone Roads, and to make such Stiles and Gates in such Fences, to the Extent and in the Manner herein-before directed, and to repair, maintain, and support such Gates, Stiles, Fences, Arches, and Culverts from Time to Time, as Occasion shall require, and all the reasonable Costs and Charges thereof, to be settled by the Commissioners herein-after appointed, shall be repaid to the said Philip Earl of Chesterfield, his Heirs or Assigns, by the said Derby Canal Company, within the Space of Twenty-one Days next after the same shall have been so settled, and an Account and Demand shall have been delivered to the Clerk of the said Derby Canal Company for the Time being; and in Default of Payment of such Costs

Costs and Charges within the Time aforesaid, the said Philip Earl of Chesterfield, his Heirs or Assigns, shall and may sue for and recover the same against the said Derby Canal Company, by Action of Debt or on the Case, in any of his Majesty's Courts of Record at Westminster.

Houses, Gardens, Parks, &c. not to be taken or injured.

VII. Provided always, and be it further enacted, That this Act shall not extend to authorize the said Derby Canal Company, or any other Person or Persons, to take, use, injure, or damage any House or Building, or any Ground which, upon the First Day of January One thousand seven hundred and ninety-three, was the Site of any House or other Building, or was a Garden, Orchard, Yard, Park, Paddock, planted Walk or Avenue, or a Lawn or Pleasure Ground inclosed or adjoining to a House, without the Consent of the respective Owners thereof, except only certain Out-buildings and a Yard, the Property of Sir Henry Harpur Baronet, situate in the said Parish of Swarkstone, now in the Occupation of Thomas Bates; and also except a Garden, the Property of the said Sir Henry Harpur, situate in the said Parish of Swarkstone, now in the Occupation of William Hall; and also except certain Out-buildings, and a Garden, the Property of Thomas Mellor, situate in the said Parish of Saint Alkmund, now in the Occupation of John Chatterton; and also except a Garden, the Property of William Duke of Devonshire, situate in the said Liberty of Little Eaton, now in the Occupation of William Oxley; and also except a Garden, the Property of Francis Radford, situate in the said Liberty of Little Eaton, in the Occupation of Robert Beighton; and also except Two Gardens, the Property of the said Philip Earl of Chesterfield, situate in the said Liberty of Coxbench, now in the several Occupations of John Annable and Robert Hatton; and also except a Garden, the Property of Vincent Fletcher, situate near Smalley Mill aforesaid, now in the Occupation of Oliver Fletcher; and also except a Garden, the Property of John Radford, situate near Smalley Mill aforesaid, now in the Occupation of William Smedley; and also except a Garden, the Property of John Lalouel, situate in the said Liberty of Little Eaton, now in the Occupation of William Harrison; and also except a Garden, situate in the said Liberty of Little Eaton, now in the Occupation of Martha Mew; and also except a Garden, the Property of Thomas Edward Radford, situate in the said Liberty of Little Eaton, now in the Occupation of Rebecca Radford; and also except a Lawn, the Property of Henry Hunter, situate in the said Liberty of

Kilburne; and also except Two Gardens, the Property of William Drury Lowe, situate in the said Parish of Denby, now in the several Occupations of Edward Raines and Robert Weston.

Restrictions relative to taking Water from any Rivulets or Streams flowing into the *Trent* and *Mersey* Canal.

VIII. Provided also, and be it further enacted, That this Act shall not extend to authorize or impower the said Derby Canal Company, their Agents, Servants, or Workmen, to divert or take, for the Use or Supply of the said intended Canal and Cut, any Water from or out of any of the Brooks, Streams, or Watercourses which now run into and supply the said Trent and Mersey Canal; and if in making the said intended Canal or Cut any such Brooks, Streams, or Watercourses shall be crossed, the said Derby Canal Company shall, and they are hereby required, at their own Expence, Costs, and Charges, to make, and for ever afterwards to keep in perfect Repair, proper and sufficient Culverts to convey the same under the said intended Canal, to the Intent that such Brooks, Streams, or Watercourses may not be impeded or interrupted, but be conveyed in their usual Courses into the said Trent and Mersey Canal, without any Loss or Diminution.

Directions as to the Locks on each Side the *Trent* and *Mersey* Canal.

IX. And be it further enacted, That all the Locks to be built upon the said intended Canal and Cut shall be constructed and made Ninety Feet long in the Chamber between the upper Gates and the lower Gates, and of the full Width of Fifteen Feet at the Top, and Fourteen Feet and an Half at the Bottom of the Chamber, and of such Elevation or Fall as shall be thought best adapted to each particular Situation; and that the Locks which shall be built upon the said intended Canal, on the South Side of the said Trent and Mersey Canal, and descending from thence into the River Trent, shall be constructed in such a Manner that the Descent or Fall of each of such Locks shall be less, by Six Inches at least in perpendicular Height, than the Ascent of the First Lock on the North Side of the said Trent and Mersey Canal, and that the Pond or Pound of Water next above the First Lock to be made on the North Side of the said Trent and Mersey Canal shall always be kept full, in order that a greater Quantity of Water may be brought from the said intended Canal into the said Trent and Mersey Canal, than shall be taken thereout into the River Trent; and in case the said Pond or Pound last mentioned shall at any Time be lower by Three Inches than the regulating or waste Weirs of the said Pond, that it shall be lawful for the Agent of the said Trent and Mersey Canal Company to fill the said Pound from the

Pound next above the said Pound so deficient in Water as aforesaid.

Upper Gates of the First Lock on the South Side of the *Trent* and *Mersey* Canal to be kept shut.

X. And, in order that every unnecessary Waste of Water from the said Trent and Mersey Canal may be prevented as much as possible; be it further enacted, That the upper Gates and Paddles of the First Lock on the South Side of the said Trent and Mersey Canal shall be kept shut at all Times, except when opened for the passing of any Barge or Boat through the same; and that it shall and may be lawful to and for the said Trent and Mersey Canal Company, at any Time or Times, to appoint any Agent or Agents to view and examine the said Lock, and if upon such View and Examination the said Lock, or the Gates or Paddles thereof, shall not be found in proper and compleat Repair, it shall and may be lawful to and for such Agent or Agents to direct and cause the same to be repaired in such Manner as he or they shall think expedient for the Purpose aforesaid; and that it shall and may be lawful to and for the said Trent and Mersey Canal Company, or such Agent or Agents so to be appointed by and on their Behalf as aforesaid, to recover the Costs and Charges of such Repairs, together with lawful Interest for the same, against the said Derby Canal Company, by Action at Law, in any of His Majesty's Courts of Record at Westminster, together with full Costs of Suit.

Directions respecting the Waste Weir South of the *Trent* and *Mersey* Canal;

XI. And be it further enacted, That the regulating or Waste Weir, at the next Lock on the said intended Canal, South of the said Trent and Mersey Canal, shall be erected and kept at all Times in Repair One Inch higher than the Waste or regulating Weir, in the Pound of the said Trent and Mersey Canal, out of which the said intended Canal shall be made or cut, South of the said Trent and Mersey Canal.

and to the passing of Locks there.

XII. And be it further enacted, That when and so often as any Boat shall pass through the Locks upon the said intended Canal on the South Side of the said Trent and Mersey Canal, and which shall not pass through any of the Locks on the said Trent and Mersey Canal, West of the said intended Canal, or on the said intended Canal, on the North Side of the said Trent and Mersey Canal, it shall and may be lawful to and for the said Agent of the said Trent and Mersey Canal Company to open the Paddles of the First Lock on the said intended Canal, on the North Side of the said Trent and Mersey Canal, and to discharge a Lock full of Water out of the said intended Canal into the said Trent and

Merſey Canal, for every Boat that ſhall have ſo paſſed as aforeſaid.

XIII. And be it further enacted, That the ſaid Derby Canal Company ſhall cauſe a good and ſubſtantial Weir to be made acroſs the River Derwent, on the Eaſt Side of the Holmes Ford, of the ſame Elevation as the preſent Weir at the Holmes Mills, and Two Locks ſhall be erected upon the ſaid Canal, One on the North and the other on the South End of the ſaid Weir, at the Diſtance of Three hundred Yards from each other, to prevent a Communication between the Waters of the ſaid Canals and the River Derwent at all Times except only whilſt ſuch Locks ſhall be opened for the Purpoſe of Navigation; and that proper Caſt Metal Pipes, of ſuch Dimenſions as the ſaid Derby Canal Company ſhall think fit, ſhall be laid in the Bed of the ſaid Weir, that the Waters in the Canal on the North Side of the ſaid Weir may have free Communication with thoſe on the South Side thereof; that the Banks of the ſaid Canal, between the ſaid Weir and each of the ſaid Locks, ſhall be levelled as low as they conveniently can be, and ſo as not to exceed in Height the preſent Average Surface of the Ground in that Situation, in order that the Flood Waters may not be ſtopped or impeded thereby.

Weir to be made acroſs the River *Derwent*.

A Lock to be erected on each Side of the Weir, &c.

XIV. And be it further enacted, That the ſaid Derby Canal Company ſhall, at their own Expence, make or cauſe to be made Two Culverts or Arches, each of the Width of Twenty Feet, and of the Depth of Ten Feet in the Center, under the ſaid intended Canal, where it ſhall croſs and be carried over the ancient Watercourſe or Mill Stream, on the South-weſt Side of the Holmes, to make a free Paſſage for the Tail Water from the Holmes Mills; and ſhall alſo, at their own Expence, make, or cauſe to be made, Two other Culverts or Arches, of equal Dimenſions with thoſe herein-before directed to be made under the ſaid intended Canal, on the North-eaſtwardly Side of the Holmes, and make a Cut from thence to the Copper Mills, of ſufficient Width and Depth to admit of a free Paſſage for the Tail Water from the Wheel of the ſaid Copper Mills.

Water on the South Side of the *Holmes* to be conveyed under the Canal by Culverts, &c.

XV. And be it further enacted, That the ſaid intended Canal from the Lock which will be built in or near Chellaſton Field, to the Firſt Lock on the North Side of the Turnpike Road leading from Derby to Nottingham, and the Cut or Branch from the ſaid Canal to the intended Lock near Borrowaſh Mills, ſhall be made on One and the ſame Level, low enough to receive a Supply of Water from the River Derwent, above Saint Michael's Weir,

Canal to be made for a certain Diſtance on the ſame Level.

Weir, and shall be of the Average Width of Forty Feet at least on the Surface of the Water when full, and of sufficient Depth to contain Five Feet of Water, that the Upper Sills of the Chellaston and Borrowash Locks shall be placed Five Feet under the Top Water Mark, and that the Level shall be filled with Water from the River Derwent, between the Hours of Eight of the Clock on the Saturday Afternoon and Eight of the Clock on the Sunday Afternoon in every Week, for the Supply of the Locks and Canal below; and for the Purpose of filling this Level with Water, in such Manner and at such Times as are herein-before mentioned, a Cut or Feeder shall be made from the said intended Canal, in a Close belonging to John Bingham, to the River Derwent, on the South Side of Saint Mary's Bridge, of sufficient Capacity for the Navigation of Boats and other Vessels passing along the said intended Canal, upon which Cut or Feeder a Lock shall be erected, the Paddles and Gates of which shall at all Times be kept shut, (except only when opened for the passing of any Barge or Boat through the same, and during such Time in which the said intended Canal and Cut are herein directed to be filled with Water), that there may be no Communication whatsoever between the Water of the River Derwent, and the said intended Canal.

The Level to be filled with Water from the *Derwent* once a Week.

Dimensions of the Summit Level.

XVI. And be it further enacted, That the Summit Level or uppermost Pond of the Canal, extending from Little Eaton to the uppermost Lock, shall be One hundred and thirty Chains at least in Length, and of the Average Width of Forty-two Feet at least at Top Water, and of sufficient Depth to contain Six Feet of Water, and that this Pond shall be filled with Water from the River Derwent, or from some of the Brooks, Streams, or Watercourses, flowing into the same, between the Hours of Eight of the Clock on Saturday Afternoon and Eight of the Clock on Sunday Afternoon in each and every Week; and that the Locks to be built upon the said intended Canal between the Summit Level and the Turnpike Road from Derby to Nottingham shall not exceed in Descent Four Feet each.

No Water to be taken from the *Derwent*, except at the Time and in the Manner before mentioned.

XVII. Provided always, and be it further enacted, That this Act shall not extend to authorize or impower the said Derby Canal Company, their Agents, Servants, or Workmen, to divert or take, for the Use or Supply of the said intended Canal and Cut, or either of them, any Water from or out of the said River Derwent, or from or out of any of the Brooks, Streams, or Watercourses which now run into the said River, except only at such Times and in such Manner as is herein-before

mentioned, unless the Quantity of Water so directed to be taken as aforesaid shall be insufficient for the Supply of One Week, in which Event it shall and may be lawful to and for the said Derby Canal Company, their Agents, Servants, or Workmen, Once in every such Week, between the Hours of Eight and Twelve of the Clock on Thursday Evening, to take such further Quantity of Water from and out of the said River Derwent, or from or out of any Brooks, Streams, or Watercourses flowing into the said River, as shall be necessary for the Purpose of Navigation.

Impowering the Mill Owners on River *Derwent* to appoint an Agent.

XVIII. And be it further enacted, That the Owners of Mills and Works on the said River Derwent, below Little Eaton aforesaid, or the major Part of them, shall, and they are hereby impowered, from Time to Time, to appoint an Agent, who shall reside in the Town of Derby, and whose Appointment shall be certified in Writing to the Clerk to the said Derby Canal Company for the Time being, which Agent shall at all Times have the Care and Management of the Lock to be erected on the Feeder near Saint Michael's Weir aforesaid, and all Sluices, Aqueducts, Feeders, and Stop Gates which may be made for supplying the said Canal with Water from the said River Derwent, or from any Brooks, Streams, or Watercourses which now run into the said River; and such Agent shall have Power to direct such Repairs to the said Lock, Sluices, Aqueducts, Feeders, and Stop Gates, as shall from Time to Time appear to him necessary for the Purpose of preventing any Water being taken from or out of the said River Derwent, or from any Brooks, Streams, or Watercourses which now run into the said River, except as herein directed; and the necessary Costs and Charges of such Repairs shall be borne and paid by the said Derby Canal Company, who shall also pay to the said Agent such Salary or Compensation as may be agreed upon between the Parties, or as in Default of such Agreement the Justices of the Peace for the said County of Derby shall at their General Quarter Sessions appoint, on the Application either of the said Derby Canal Company, or of such Agent, after Fourteen Days Notice shall have been given in the Derby Newspaper of such intended Application.

Width of the Canal and Towing Paths.

XIX. And be it further enacted, That the Lands or Grounds to be taken or used for such intended Canal, Cut, and Towing Paths, and the Ditches, Drains, and Fences to separate such Towing Paths from the adjoining Lands, shall not exceed Twenty-six Yards in Breadth,

except in such Places where any Dock, Bason, or Reservoir shall be made, or where the said intended Canal and Cut shall be raised higher or cut more than Six Feet deeper than the present Surface of the Land, and except in such Places where it shall be judged necessary for Boats, Barges, and other Vessels, to turn, lie, or pass each other, or where any Crane shall be erected, or where any Wharf shall be made for the landing or delivering of Goods and Merchandizes, not more than Eighty Yards in Breadth in any Place.

Line to be according to a Plan deposited with the Clerk of the Peace.

XX. And whereas a Map or Plan describing the Line of the said intended Canal, Cut, and Rail Ways, or Stone Roads, and the Lands through which the same are intended to be carried, together with a Book of Reference containing a List of the Names of the Owners, or reputed Owners and Occupiers of such Lands, have been deposited at the Office of the Clerk of the Peace for the County of Derby, be it therefore further enacted, That the said Map or Plan, and Book of Reference, shall remain in Custody of the Clerk of the Peace for the said County, and all Persons shall at any seasonable Times have Liberty to inspect and peruse the same, and to make Copies thereof or Extracts therefrom, at their Will and Pleasure, paying the Clerk of the Peace the Sum of One Shilling for every such Inspection, and after the Rate of Sixpence for every Two hundred Words of such Copies or Extracts of the said Book of Reference; and that the said Company of Proprietors, in making the said intended Canal, Cut, and Rail Ways, or Stone Roads, shall not deviate more than One hundred Yards from the Line or Course thereof described in the said Map or Plan, without the Consent in Writing of the Person or Persons through whose Lands or Grounds such Deviation shall be made; and that no Deviation whatsoever from the Line or Course of the said Rail Ways shall be made in the Estate of the said Philip Earl of Chesterfield, at Horsley aforesaid, without the Consent of the said Earl: Provided always, that no Deviation shall be made from the Line or Course of the said intended Canal, Cut, and Rail Ways or Stone Roads, into any Lands or Grounds not described in the said Plan and Book of Reference, without the Consent in Writing of the Person or Persons through whose Lands or Grounds such Deviation shall be made: Provided also, that no Advantage shall be taken of or against the said Derby Canal Company, or any Interruption be given to the making of the said intended Canal, Cut, and Rail Ways or Stone Roads, on Account of any Error or

Omission in the said Plan or Book of Reference, in case it shall appear to any Five or more of the Commissioners appointed by this Act, and be certified by Writing under their Hands, that such Error or Omission proceeded from Mistake or Misinformation.

Where Roads are injured, others must be made.

XXI. Provided always, and be it further enacted, That in all Cases where, in Exercise of the Powers aforesaid, any Part of any Carriage or Horse Road, either publick or private, shall be found necessary to be altered and diverted, cut through, taken, or so much injured as to be impassable or inconvenient for Travellers or Carriages, or the Persons entitled to the Use thereof, the said Derby Canal Company shall, before any such Road shall be altered or diverted, cut through, taken, or injured as aforesaid, cause a good and sufficient Carriage or Horse Road (as the Case may require) to be set out and made instead thereof, as convenient for Passengers and Carriages as the Road so to be cut through, taken, or injured as aforesaid, or as near thereto as may be, and shall cause the same to be put in good and substantial Order and Condition.

Incapacitated Persons impowered to sell and convey Lands.

XXII. And be it further enacted, That after any Lands, Tenements, Grounds, or Hereditaments shall be set out and ascertained as aforesaid, for the making of the said Canal, Cut, Rail Ways, or Stone Roads, Wharfs, or any other of the Works and Conveniencies hereby authorized to be made, it shall and may be lawful to and for all Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Tail, or for any other Estate, Husbands, Guardians, Trustees and Feoffees in Trust for Charities, or other Persons, Committees, Executors, and Administrators, and all other Trustees whatsoever, not only for and on Behalf of themselves and their respective Heirs and Successors, but also for and on Behalf of the Person or Persons entitled in Remainder after them, if incapacitated, and for and on Behalf of their respective Cestuique Trusts, whether Infants, Issue unborn, Lunaticks, Idiots, Femes Covert, or other Persons, and to and for all Femes Covert who are or shall be seised, possessed of, or interested in their own Right, and to and for all and every other Person or Persons whomsoever, who are or shall be seised, possessed of, or interested in any Lands, Tenements, Grounds, or Hereditaments, which shall be so set out and ascertained as aforesaid, to contract for, sell, and convey to the said Derby Canal Company, or such other Person or Persons as they shall in that Behalf nominate or appoint, all or any Part or Parts of such

such Lands, Tenements, Grounds, or other Hereditaments, which shall from Time to Time be so set out for any of the Purposes aforesaid, either in Consideration of a Sum of Money at once to be paid, or of an Annual Rent or Payment to be charged and secured as herein mentioned; and where by making the Canal, Cut, or any Aqueduct for the Conveyance of Water thereto or therefrom, the Lands, Tenements, Grounds, or Hereditaments of any Person or Persons shall be separated into small Parcels, so as to render the Occupation thereof inconvenient, it shall and may be lawful to and for all such Bodies Politick, Corporate, or Collegiate, Corporations, and other Person or Persons whomsoever, who are or shall be seised, possessed, or interested as aforesaid, of or in the same, by and with the Consent of the said Commissioners, to be testified by Writing under their Hands and Seals, and attested by Two or more credible Witnesses, to contract for, sell, and dispose of, or convey in Exchange for or in lieu of other Lands or Hereditaments, all or any Part or Parts of such Lands, Tenements, Grounds, or Hereditaments, as shall be so separated as aforesaid, either unto the said Derby Canal Company, or unto any other Person or Persons whomsoever, for such Price or Prices in Money, or for such Equivalent in Lands or Hereditaments, or by Way of Annual Rent, as to the said Commissioners shall appear reasonable; and that all such Contracts, Agreements, Sales, Exchanges, Conveyances, and Assurances, as shall be made and executed for the Purposes aforesaid, shall be valid and effectual in Law to all Intents and Purposes whatsoever; any Law, Usage, or Custom to the contrary notwithstanding; and all Bodies Politick, Corporate, or Collegiate, and other Persons so selling, exchanging, or conveying as aforesaid, are hereby indemnified for what they shall do in pursuance of this Act; and all such Contracts, Agreements, Sales, Conveyances, and Assurances shall be made at the Expence of the said Derby Canal Company; and such of them as shall be made of any Lands or other Hereditaments to the said Derby Canal Company shall be made according to the following Form; videlicet:

Contracts and Sales to be made at the Expence of the Company.

Form of Conveyance to the Company.

I *A. B.* of in Consideration of the Sum of to me paid, [*or*, in Consideration of the Annual Rent of to me, to be hereafter yielded and paid], by the *Derby* Canal Company, do hereby grant and release to the said Company, all [*describing the Premises to be conveyed*] and all my Right, Title, and Interest in and to

to the ſame, and every Part thereof, to hold to the ſaid Company for ever, by virtue and according to the true Intent and Meaning of the Act of Parliament paſſed, for making and maintaining the ſaid *Derby* Canal. In Witneſs whereof I have hereunto ſet my Hand and Seal, this Day of in the Year of our Lord

Which ſaid Conveyances ſhall be kept by the Clerk or Clerks to the ſaid Derby Canal Company, who ſhall from Time to Time, when requeſted, deliver atteſted Copies thereof to any Perſon or Perſons requeſting the ſame, and ſhall have and receive the Sum of One Shilling for every ſuch atteſted Copy; and every ſuch Conveyance as aforeſaid which ſhall be made to any Perſon or Perſons, other than the ſaid Derby Canal Company, ſhall be according to the following Form:

Form of Conveyance to other Perſons.

I *A. B.* do hereby, in Conſideration of the Sum of to me in Hand paid by *C. D.* at or before the Sealing and Delivery of theſe Preſents, the Receipt whereof I do hereby acknowledge [*or* in Exchange for certain Lands ſituate conveyed to me by *C. D.* by Writing under his Hand and Seal, bearing even Date herewith], convey and aſſign to the ſaid *C. D.* all [*deſcribe the Premiſes*] to hold to the ſaid *C. D.* his Heirs and Aſſigns for ever, as witneſs my Hand and Seal, the Day of in the Year of our Lord

And every ſuch Conveyance ſhall be valid and effectual.

Company to purchaſe ſmall Pieces of Land ſeparated in cutting the Canal.

XXIII. And be it further enacted, That if, in making the ſaid Canal or Cut, any Piece or Pieces of Ground ſhall be cut through and divided, ſo that what ſhall be left on each or either Side of the ſaid Canal or Cut ſhall be leſs than half an Acre in Quantity, or leſs than Twenty Yards in Breadth, from the ſaid intended Canal and Cut, throughout the whole Length thereof, and if the Owner or Owners of any ſuch Pieces or Parcels of Ground ſhall not have any other Lands or Grounds adjoining or contiguous to what ſhall be ſo left on each or either Side of the ſaid Canal and Cut reſpectively, then, and in every ſuch Caſe, the ſaid Derby Canal Company ſhall alſo take and purchaſe the Piece or Parcel, Pieces or Parcels of Ground ſo to be left on each or either Side of the ſaid Canal and Cut as aforeſaid, and ſhall pay for the ſame after the ſame Rate, and in the ſame Manner, as they ſhall pay for the Land or Ground adjoining thereto, which ſhall be taken and uſed for making the ſaid Canal and Cut.

For preſerving Copy-hold Rights.

XXIV. Provided always, and be it further enacted, That all Contracts, Agreements, Bargains, Sales, and

Exchanges, or concerning any Lands, Tenements, or Hereditaments, which shall be Copyhold, or of the Nature of Copyhold, shall be executed and completed by Surrender thereof in the Courts of the respective Manors whereof such Lands, Tenements, or Hereditaments shall be held according to the Custom of the same Manors respectively, and such Lands, Tenements, or Hereditaments shall remain and continue subject to such and the same Fines, Rents, and Services as are due and payable, and of Right accustomed, in such and the same Manner as if this Act had not been made, unless the Lord or Lords of the respective Manors whereof such Copyhold Hereditaments are held, shall be desirous of infranchising the same, in which Case such Lords shall be competent so to do, notwithstanding they shall be seised of or entitled to the same Manors respectively for a less Interest than an Estate of Inheritance in Fee Simple.

Appointing Commissioners.

XXV. And whereas Differences may arise between the said Derby Canal Company and the several Owners of and Persons interested in any Lands, Grounds, Stone Quarries, Tenements, Hereditaments, Mills, Fisheries, or Waters, which shall or may be affected or prejudiced by the Execution of the Powers hereby granted, respecting the Purchase Money to be paid for Land, or Recompence to be made to them for Damages respectively; be it further enacted, That all Persons residing within the Distance of Ten Miles from any Part of the said intended Canal and Cut, Rail Ways or Stone Roads, or any of them, who shall be seised in their own Right, or in the Right of their Wives, and not as Mortgagees, of Freehold, Copyhold, or Customary Estates of Inheritance, or Lease or Leases for Lives, or for a long Term of Years determinable upon One or more Life or Lives, of One hundred Pounds per Annum, shall be and are hereby appointed Commissioners for the settling, determining, and adjusting all Questions, Matters, and Differences which shall or may arise between the said Derby Canal Company and the several Proprietors of and Persons interested in any Lands, Grounds, Stone Quarries, Tenements, Hereditaments, Mills, Fisheries, or Waters, that shall or may be affected or prejudiced by the Execution of any of the Powers hereby granted, and for other the Purposes herein mentioned; and the said Commissioners, or any Seven or more of them, acting in such Question, Matter, or Difference, as shall arise, shall and are hereby impowered, by Examination of Witnesses, upon Oath, (which Oath the said Commissioners are hereby impowered to administer),

nister), and by any other lawful Ways and Means, by Writing under their Hands and Seals, with the Consent of the Parties concerned, to determine and adjust, from Time to Time, what Sum or Sums of Money shall be paid by the said Derby Canal Company, either by Annual Rent or Payment, or by a Sum of Money in Gross, to and at the Election of such Bodies Politick or Corporate, Person or Persons respectively, who shall be so entitled or interested as aforesaid, for the absolute Purchase of the Lands, Grounds, or Hereditaments, which shall be set out and ascertained, or intended to be made Use of as aforesaid, for making the said Canal and Cut, Rail Ways or Stone Roads, or any Part thereof, or other the Purposes of this Act, and also to adjust and determine, separately and distinctly from any such Payment in Gross or Annual Rent as herein last before is mentioned, what other distinct Sum or Sums of Money shall be paid by the said Derby Canal Company, as a Recompence for any Damages which may or shall be sustained by such Bodies Politick or Corporate, or any other Persons being Owners of, or interested in any Mills, Fisheries, or Waters, Lands, Grounds, Tenements, or Hereditaments, for or by reason of severing or dividing the same, or making, repairing, or maintaining the said Canal and Cut, Rail Ways, or Stone Roads, Trenches, Passages, Gutters, Watercourses, Roads, Ways, or Sluices, or supplying the same, or any of them, with Water as aforesaid, or by the altering, diverting, taking away, or using any Springs, Streams of Water, or Watercourses, flowing to or supplying with Water any Mill or Mills, or Engine or Engines for the working or getting of Coals or other Minerals, or by the overflowing, leaking, or oozing of the Water over or through the Banks of the said Canal and Cut, or Trenches, or over or through any Sluices, Passages, Gutters, or Watercourses, which shall be made pursuant to the Powers hereby given for conveying Water to or from the said Canal and Cut, or by not cleansing the said Watercourses, Trenches, or Passages, or by turning or diverting any Streams or Brooks into the same, or by reason or means of the Execution of any of the Powers herein contained, by the said Derby Canal Company, their Agents, Workmen, or Servants, in case such Price or Value, Damages or Recompence respectively, cannot be settled, adjusted, and agreed for, by and between the said Derby Canal Company, or their Agents, for the Time being, or any of them, and such Proprietors of and Persons interested in the Lands, Grounds, Tenements, Hereditaments, Mills, Fisheries, or Waters as aforesaid;

To determine what Sums of Money or Annual Rent the Company shall pay for the Purchase of Lands.

If Parties refuse to submit to Commissioners, or are dissatisfied with their Determination;

aforesaid; and if the said Derby Canal Company, for and on the Part and Behalf of themselves, or any such Body Politick, Corporate, or Collegiate, or other Person or Persons so interested or entitled as aforesaid, for and on his, her, or their Parts, or for and on the Part of his, her, and their Cestuique Trust, or of any incorporated Person or Persons, shall refuse to submit any such Matter to the Determination of the said Commissioners, or shall be dissatisfied with any Determination which shall be by them made as aforesaid, and if any such Body Politick, Corporate, or Collegiate, Trustee or Trustees, or other Person or Persons, entitled or interested as aforesaid, shall refuse to receive, upon due Tender thereof made, such Purchase Money or Annual Rent, or such Recompence as shall be so determined to be paid, or shall, upon Notice in Writing given to the said principal Officer or Officers of such Body Politick, Corporate, or Collegiate, or to such Trustee or Trustees, Person or Persons respectively, or left at the Place or Places of his, her, or their Abode, or with the Tenant or Tenants, Occupier or Occupiers of such Lands or Grounds, for the Space of Twenty Days next after such Notice, neglect or refuse to treat, or shall not agree with the said Derby Canal Company, or by reason of Absence shall be prevented from treating, or through Disability by Nonage, Coverture, or other Impediment, cannot treat for themselves, or make such Agreement as shall be convenient for promoting the Navigation, and other Works aforesaid, or shall not produce or evince a clear Title to the Premises which they are or shall be in Possession of, or to the Interest which they claim therein, then, and in every such Case, the said Commissioners, or any Seven or more of them, shall, and they are hereby impowered and required, from Time to Time, to issue a Warrant or Warrants, under their Hands and Seals, to the Sheriff of the County of Derby for the Time being, or in case such Sheriff, or his Under Sheriff or Under Sheriffs, shall happen to be One of the said Derby Canal Company, or enjoy any Office of Trust or Profit under them, or shall be otherwise interested in the Matter in Question, then to any One of the Coroners within the said County of Derby, not interested as aforesaid, commanding such Sheriff or Coroner respectively to impannel, summon, and return a Jury, and the said Sheriff or Coroner respectively is hereby required accordingly to impannel, summon, and return a Jury, of Twenty-four sufficient and indifferent Men, qualified according to the Laws of this Realm to be returned for Trials of

or refuse to accept the Purchase Monies;

or to treat, or shall not agree;

a Jury to be impannelled to asse's the Purchase Monies, &c.

Iſſues joined in His Majeſty's Courts at Weſtminſter, to appear before the ſaid Commiſſioners, or any Seven or more of them, at ſuch Time and Place as in ſuch Warrant or Warrants ſhall be appointed, not being leſs than Nine or more than Twenty-one Days after ſuch Warrant ſhall be ſerved upon the Sheriff or Coroner; and in caſe a ſufficient Number of Jurymen ſhall not appear at the Time and Place appointed as aforeſaid, the Sheriff or Coroner ſhall return other honeſt and indifferent Men of the Standers-by, or that can ſpeedily be procured to attend that Service (being ſo qualified as aforeſaid) to make up the ſaid Jury to the Number of Twelve, and all Parties concerned may have their lawful Challenges againſt any of the ſaid Jurymen, but ſhall not challenge the Array; and the ſaid Commiſſioners, or any Three or more of them, are hereby impowered to ſummon and call before them all and every ſuch Perſon and Perſons as ſhall be thought neceſſary to be examined as Witneſſes touching the Matter in Queſtion; and the ſaid Commiſſioners, or any Seven or more of them, may order and authorize the ſaid Jury, or any Six or more of them, to view the Place or Places, or Matter in Controverſy; which Jury, upon their Oath, to be adminiſtered by the ſaid Commiſſioners, or any One or more of them, (which Oath, as well as the Oaths to ſuch Perſon or Perſons as ſhall be called upon to give Evidence, the ſaid Commiſſioners, or any One or more of them, are hereby impowered to adminiſter), ſhall enquire of, aſſeſs, and aſcertain the Sum or Sums of Money, or Annual Rent, to be paid for the Purchaſe of ſuch Lands or Grounds, or the Recompence to be made for the Damages that may or ſhall be ſuſtained as aforeſaid, and in ſo doing the ſaid Jury ſhall take into Conſideration the Damage or Inconvenience which may ariſe by Means of any Bridges, Roads, or other Communication made neceſſary by reaſon of the ſaid Canal, and to aſſeſs ſeparate Damages for the ſame; and the ſaid Commiſſioners, or any Five or more of them, ſhall give Judgement for ſuch Purchaſe Monies, Rent, or Recompence, ſo to be aſſeſſed by ſuch Juries; which ſaid Verdict, and the Judgement thereupon pronounced by the ſaid Commiſſioners, or any Five or more of them, ſhall be binding and concluſive to all Intents and Purpoſes againſt the King's Majeſty, his Heirs and Succeſſors, and againſt all Bodies Politick, Corporate, or Collegiate, and all Perſons whomſoever: Provided always, That if any ſuch Sheriff or Coroner, or his Deputy or Agent, ſhall make Default in the Premiſes, every ſuch Perſon ſhall, for every ſuch Offence, forfeit the Sum

of Twenty Pounds; and if any Person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing shall refuse to give his Verdict, or in any other Manner wilfully neglect his Duty, contrary to the true Intent of this Act, or if any Witness, so summoned as aforesaid, shall neglect to attend, or attending shall refuse to be sworn, or to give Evidence, every Person so offending respectively, having no reasonable Excuse, to be allowed by the said Commissioners, or any Five or more of them, shall for every such Offence forfeit and pay the Sum of Five Pounds.

Quarter Sessions to nominate Commissioners, in case a sufficient Number cannot be found in the Neighbourhood.

XXVI. And be it further enacted, That in case it shall happen that for Want of a proper Number of Commissioners in the Neighbourhood, it shall become difficult to procure a Meeting or Meetings for executing the Powers of this Act, then, and in such Case, it shall and may be lawful for the said Derby Canal Company from Time to Time to make Complaint thereof to the Justices of the Peace for the said County of Derby, at any General Court of Quarter Sessions of the Peace, or any Adjournment thereof; and the Justices to whom such Complaint shall be made are hereby authorized to receive and hear the said Complaint, and upon due Proof thereof being made to them, to nominate and appoint such fit and proper Persons as they in their Discretion shall think fit to be Commissioners for the Purposes of this Act, and the said Commissioners, so nominated and appointed, shall from thenceforth have the like Powers and Authorities as if appointed by or under the Authority of this Act.

Commissioners who are Justices may act as such in the Execution of this Act;

but not to hold any Place of Profit, &c.

XXVII. And be it further enacted, That such of the said Commissioners who are Justices of the Peace for the County of Derby shall and may act as Justices of the Peace in the Execution of this Act, notwithstanding their being Commissioners; but no Person shall act as a Commissioner in any Case in the Execution of this Act, during the Time of his holding any Place of Profit arising out of the Rates to be collected by virtue of this Act, or during the Time of his being a Proprietor in the said Navigation, or concerned or interested in any Contract or Bargain made or to be made for the Purposes of this Act, or in Cases where he shall be in anywise interested or concerned in the Matters in Question, nor unless he shall reside within the Distance of Ten Miles from some Part of the said intended Canal, Cut, Railways, or Stone Roads, or some of them, and shall be seised in his own Right, or in the Right of his Wife, and not as a Mortgagee, at the Time of such his acting, of a Freehold,

Qualification of Commissioners.

Copyhold,

Copyhold, or Customary Estate of Inheritance, or Lease or Leases for Lives, or for a long Term of Years determinable on the Expiration of One or more Life or Lives, of the yearly Value of One hundred Pounds, nor shall any Person act as a Commissioner in the Execution of this Act, (otherwise than in administering an Oath to the Commissioners), until he shall have taken and subscribed such Oath before any One or more of the said Commissioners, who is or are hereby authorized and impowered to administer the same; (that is to say),

Their Oath.

I *A. B.* do swear, That I do reside within the Distance of Ten Miles from some Part of the *Derby* Canal and Cut, or the Rail Ways or Stone Roads communicating therewith, and that I am truly and *bonâ fide* in the actual Possession and Enjoyment [*or* Receipt] of the Rents and Profits of Lands, Tenements, and Hereditaments of the clear yearly Value of One hundred Pounds above Reprizes; and that I will without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform the Powers and Authorities vested in me as a Commissioner, by an Act of Parliament made in the Thirty-third Year of the Reign of King *George* the Third, intituled, [*Set forth the Title of the Act*].

Penalty on Persons acting who are not qualified.

And if any Person hereby declared incapable to act as a Commissioner shall nevertheless presume so to do, such Person shall, for every such Offence, forfeit the Sum of Fifty Pounds, to any Person who will sue for the same, to be recovered, with full Costs of Suit, by Action at Law in any of His Majesty's Courts of Record at Westminster; and such Person so prosecuted shall prove that he is qualified as aforesaid, or otherwise shall pay the said Penalty, without any other Proof or Evidence on the Part of the Prosecutor than that such Person hath acted as a Commissioner in the Execution of this Act.

Commissioners to give Notice of their Meetings.

XXVIII. Provided always, and be it further enacted, That no Meeting whatsoever of the said Commissioners shall at any Time be had for putting in Execution any of the Powers or Authorities vested in them by this Act, unless Fourteen Days previous Notice at least of every such intended Meeting shall be given in the Derby Newspaper, or in such other Manner as the said Derby Canal Company shall at any General Meeting direct or appoint, every such Notice to specify the Time and Place of every such Meeting or Meetings respectively, and the several Matters and Things then and there proposed to be done; and

and that every Meeting of the said Commissioners by virtue of this Act shall be publick; and that no Order, Direction, Appointment, or Determination of the said Commissioners, or any of them, touching any of the Matters and Things herein contained, shall be binding and effectual, unless the same shall be done at One of such Meetings, and unless the Majority of the Commissioners present shall concur therein, such Majority not being less than the respective Numbers authorized to make such Orders, Directions, Appointments, or Determinations respectively, any Thing herein-before contained to the contrary notwithstanding.

General Meeting of Commissioners, on Application of Proprietors or Land Owners.

XXIX. And be it further enacted, That upon Application to be made by the Derby Canal Company, or any Five or more of them, or by the Owners or Occupiers of any Grounds, Lands, Tenements, or Hereditaments, to be affected by the said intended Canal and Cut, Rail Ways or Stone Roads, or any of the Works necessary or relating thereto, or any of them, unto the Commissioners appointed by and for the Purposes of this Act, or any Five or more of them, requesting or desiring them to appoint a General Meeting of the Commissioners, the Commissioners so requested or applied to, or any Five or more of them, may and shall, and they are hereby respectively authorized and required, within Fourteen Days after such Notice or Application made, to give Notice in Manner aforesaid of a General Meeting to be held at such Time and Place as shall be specified in such Notice, such Time not being less than Fourteen, or more than Twenty-eight Days from the Day on which such Request shall be made as aforesaid; and the said Commissioners are hereby authorized, impowered, and required to assemble at the Time and Place so to be appointed, in order to put this Act, and the Powers and Authorities hereby given to or vested in them, in Execution, and shall then adjourn themselves, and afterwards meet at such Time and Place, as the Commissioners then assembled, or any Five or more of them, shall think proper and convenient; and if it shall happen that there shall not appear at any Meeting which shall be appointed to be had or held by the said Commissioners, a sufficient Number of Commissioners to act at such Meeting, and to adjourn to any other Time, then, and in such Case, the Clerk to the said Commissioners shall and may, by publick Notice to be given in Manner aforesaid, appoint the said Commissioners to meet at the House where the last Meeting of the said Commissioners was appointed to be held, on that Day Fortnight next after the Day on

which the last Meeting of the Commissioners was appointed to be held.

Meetings upon Request may be summoned at any Time:

XXX. Provided always, and be it further enacted, That it shall and may be lawful for any Five or more of the said Commissioners, and they are hereby impowered, although they shall not be assembled at a Meeting to be held by virtue of the said Act, from Time to Time, and at all Times, upon such Request made as aforesaid, by Notice in Writing signed by them, and published in Manner as aforesaid, to summon a Meeting of the said Commissioners at such Time and Place as shall be mentioned in such Notice, for the settling and ascertaining such Damages as are herein directed to be settled and ascertained, notwithstanding any Adjournment or Non-adjournment of the said Commissioners: Provided always, that every Meeting of the Commissioners for hearing and determining any Complaint, Controversy, Dispute, or Difference between the said Derby Canal Company and any other Person or Persons, shall be held at some Place within Five Miles of some Part of the said Canal, Cut, Rail Ways, or Stone Roads.

To be held within Five Miles of the Canal, &c.

Proceedings not to be quashed for Want of Form:

XXXI. Provided always, and be it further enacted, That no Proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for Want of Form, or removed by Certiorari, or any other Writ or Process whatsoever, into any of his Majesty's Courts of Record at Westminster, any Law or Statute to the contrary notwithstanding.

But to be entered in a Book.

XXXII. And be it further enacted, That all the Orders and Proceedings of the said Commissioners shall be regularly entered in a Book to be kept for that Purpose, and such Entries (being signed by such Number of the said Commissioners respectively as are impowered by this Act to make such Orders, or carry on such Proceedings) shall be deemed Originals, and admitted as Evidence in all Courts whatsoever, and the said Commissioners, or any Five or more of them, may and are hereby required, at the First Meeting to be held by them as aforesaid, to appoint, out of Three Persons to be nominated by the said Derby Canal Company, such One of the said Three Persons as they the said Commissioners shall think proper to be their Clerk, and the said Commissioners shall have Power, from Time to Time, to remove such Clerk, and appoint another in his Stead, out of Three Persons (to be nominated as aforesaid), which Clerk shall be paid for his Care and Trouble, in the Execution of such Office by the said Derby Canal Company.

Expences of Commissioners and Jury by whom to be paid.

XXXIII. And be it further enacted, That in all Cases where a Verdict shall be given or made for more Monies, as a Recompence or Satisfaction for any Lands, Grounds, Mills, Waters, or Hereditaments, or Property of any Person or Persons whomsoever, or for any Damage to be done to any Lands, Grounds, Waters, Hereditaments, or Property, of any Person or Persons, than had been previously offered by or on Behalf of the said Derby Canal Company, before the Meeting of the said Commissioners, or than had been determined as aforesaid by the said Commissioners, or if no such Recompence or Satisfaction had been offered or tendered in respect of Damages, by or on Behalf of the said Derby Canal Company, then all the Expences of convening such Commissioners, summoning such Jury, and taking such Inquest, shall be settled by the said Commissioners, or any Five of them, and defrayed by the said Derby Canal Company; but if any Verdict shall be given or made for the same, or a less Sum than had been previously offered by or on Behalf of the said Derby Canal Company, or than had been determined or assessed by the said Commissioners as aforesaid, or in case no Damages shall be given by the Verdict, where the Dispute is for Damages only, then, and in every such Case, the Costs and Expences of calling a Meeting of such Commissioners, summoning such Jury, and taking such Inquest, shall be settled in like Manner by the said Commissioners, and be borne and paid by the Person or Persons with whom the said Derby Canal Company shall have such Controversy or Dispute; which said Costs and Expences, having been so settled, shall and may be deducted out of the Money so assessed and adjudged, where the same shall exceed such Costs and Expences, as so much Money advanced to and for the Use of such Person or Persons, and the Payment or Tender of the Remainder of such Money shall be deemed and taken, to all Intents and Purposes, to be a Payment or Tender of the whole Sum or Sums so assessed or adjudged.

Juries under the same Regulations as in the Courts at *Westminster*, &c.

XXXIV. And be it further enacted, That every such Jury and Juryman, Witness and Witnesses, shall be made subject to the same Regulations, Pains, Penalties, and Damages, as Jurors or Witnesses are respectively subject or liable to for Defaults in any of His Majesty's Courts of Record; and that all and every Person or Persons making Complaint, and requesting such Jury, shall, before the said Commissioners shall be obliged to issue out their Warrant or Warrants for the summoning such Jury as aforesaid, enter into a Bond, with One

ſufficient Surety, to the Treaſurer of the Derby Canal Company for the Time being, in the Penalty of Two hundred Pounds, to proſecute his, her, or their Complaints, and to bear and pay the Coſts and Expences for ſummoning ſuch Jury, and taking ſuch Inqueſt, in caſe a Verdict ſhall be given for no more, or for a leſs Sum or Rent, than had been offered by or on Behalf of the ſaid Derby Canal Company, or than had been aſſeſſed by the ſaid Commiſſioners, before the ſummoning and returning the ſaid Jury or Juries, as a Recompence or Satisfaction for any Lands, Grounds, or Hereditaments, or for any Damages as aforeſaid.

Notice of Injury to be given to the Company before Complaint to the Commiſſioners.

XXXV. Provided always, and be it further enacted, That the ſaid Commiſſioners ſhall not, nor ſhall any of them, be obliged, by virtue of this Act, to receive or take Notice of any Complaint or Complaints to be made by any Perſon or Perſons for any Injury or Damage by him, her, or them ſuſtained, or ſuppoſed to be ſuſtained, unleſs Application ſhall be made in relation thereto, by or on Behalf of ſuch Perſon or Perſons, to the ſaid Derby Canal Company, or to their known Agent or Agents, or to ſome Collector or Collectors of the Tolls ariſing from the ſaid Canal and Cut, Rail Ways or Stone Roads, within the Space of Six Calendar Months next after the Time that ſuch ſuppoſed Injury or Damage ſhall have been ſuſtained, or the doing or committing thereof ſhall have ceaſed.

Penalty of falſe Evidence.

XXXVI. And be it further enacted, That all and every Perſon and Perſons who, in any Examination to be taken by virtue of this Act, ſhall give falſe Evidence before the Commiſſioners, or any of them, or any Jury as aforeſaid, or before any Juſtices of the Peace, ſhall and may be proſecuted for the ſame, and upon Conviction thereof ſhall be ſubject to ſuch Puniſhments as any Perſon or Perſons can or may be ſubject to for wilful and corrupt Perjury, by any of the Laws or Statutes of this Realm.

Manner of making Satisfaction for Damages done in getting Materials.

XXXVII. And be it further enacted, That from Time to Time, as the ſaid Derby Canal Company, their Agents or Servants, ſhall, by virtue of the Powers aforeſaid, dig, take, and carry away any Soil, Clay, Gravel, or Stone, for making, carrying on, and completing the ſaid Canal and Cut, Rail Ways, Stone Roads, and other Works hereby authorized to be made, in or from the Grounds of any Perſon or Perſons adjoining or lying convenient thereto, or from any Common or Waſte Grounds, the ſaid Derby Canal Company ſhall make a reaſonable Satisfaction for the ſame from Time to Time,

Time, within Six Calendar Months after such Materials shall be got or dug, and the Damages done to such Land or Ground shall be ascertained, on Application being made by the respective Owners, or Lord or Lords of the Manors, for that Purpose; and in case the said Company, and Owners of Lands from whence such Soil, Clay, Gravel, or Stone shall be got, cannot agree upon such Satisfaction, or the said Land Owners shall refuse to treat, or by reason of Absence shall be prevented from treating, or through Disability, Coverture, or other Impediment, cannot treat for themselves, or make such Agreement as shall become necessary, then the said Satisfaction shall be determined by Three indifferent Persons, appointed by the Parties for that Purpose, or by the Commissioners, or a Jury, in such Manner as is by this Act directed, in respect of any other Satisfaction to be made by the said Derby Canal Company.

Upon Payment or Tender of Monies, Company to enter to make Canal.

XXXVIII. And be it further enacted, That upon Payment or legal Tender of such Sum or Sums of Money, or Annual Rent, as shall be contracted or agreed between the Parties, or determined and adjusted by the said Commissioners, or any Five or more of them, or assessed by such Juries, in Manner aforesaid, for the Purchase of any such Lands, Grounds, or Hereditaments as aforesaid, to the Proprietor or Proprietors thereof, or other Persons entitled to receive such Money or Rent respectively, or to the principal Officer or Officers, or to the Tenant for the Time being of any Body Politick, Corporate, or Collegiate, so entitled, at any Time after the same shall have been so agreed for, determined, or assessed, or if he, she, or they cannot be found, or shall refuse to accept such Money or Rent, then upon Payment thereof to such Person or Persons as the said Commissioners, or any Five or more of them, shall by Writing under their Hands appoint, for the Use of and to be paid upon Demand, without Fee or Reward, to such Proprietors or Persons respectively as aforesaid, then, and in any of the said Cases, as often as the same shall happen, it shall and may be lawful to and for the said Derby Canal Company, and their Agents, Workmen, and Servants, immediately to enter upon such Lands, Grounds, or Hereditaments respectively, (or before such Tender of Money or Rent, by Leave of the Owners or Occupiers), and to dig, cut, trench, and sough, and to remove such Stone, Rubbish, Trees, Roots of Trees, and all other Obstructions, and to execute all or any of the Powers hereby granted for the making, using, maintaining, and repairing the said Canal, Cut, Rail Ways, or Stone

Roads, and Towing Paths on the Sides thereof, in or upon such Lands, Tenements, or Hereditaments, for which such Satisfaction shall be paid or tendered as aforesaid, and thereupon to make or do any Works, Matters, or Things for the effecting and carrying on the said Navigation, Rail Ways, or Stone Roads, and the Works thereof, and for supporting and maintaining the same respectively, as the said Derby Canal Company shall think requisite.

Verdicts to be recorded, and Land vested in the Company.

XXXIX. And be it further enacted, That all the Determinations of the said Commissioners, or any Five or more of them, which shall be submitted to and acquiesced in by the Parties concerned, and all the said Judgements and Verdicts, being first signed by Five or more of the Commissioners present at the making of such Determinations, or the taking of such Verdicts and pronouncing of such Judgements respectively, shall be transmitted to and be kept by the Clerk of the Peace amongst the Records of the Quarter Sessions for the said County of Derby, and shall be deemed to be Records of the said Quarter Sessions to all Intents and Purposes, and the same, or true Copies thereof, being duly certified, shall be allowed to be good Evidence in all Courts whatsoever; and all Persons shall have Liberty to inspect the same, and also the Inrolments of Contracts, Agreements, Sales, and Conveyances as are herein-before mentioned, paying for each Inspection the Sum of One Shilling, and to take Copies thereof, paying for such Copy, not exceeding One hundred Words, the Sum of Four-pence, and so in Proportion for any Number of Words; and immediately on such Payment of Purchase Monies or Rents as aforesaid, and Entry of such Verdicts, Judgements, Sentences, Decrees, and other Proceedings of the said Commissioners and Juries, all the Estate, Right, Title, Interest, Use, Trust, Property, Claim, and Demand, in Law and Equity, of the Person or Persons for whose Use such Money or Rent shall be paid, in and to the said Lands, Tenements, and Hereditaments, shall vest in the said Derby Canal Company, and they shall be deemed in Law to be in the actual Possession and Seisin of the same Lands, Tenements, and Hereditaments in Fee Simple, to all Intents and Purposes whatsoever, as fully and effectually as if every Person having an Estate therein had been able to convey, and had actually conveyed the same by the most effectual legal Conveyance; and such Payment shall not only bar all Right, Title, Interest, Claim, and Demand of the Person or Persons to whose Use

the same shall be made, but also shall extend to, and be deemed and construed to bar the Dower and Dowers of the Wife and Wives of such Person and Persons, and all Estates Tail, and other Estates in Reversion and Remainder, of his, her, or their Issue or Issues, and of every other Person or Persons whomsoever.

Compensation to be made for the Tithes of the Lands to be taken.

XL. And be it further enacted, That full Recompence and Satisfaction shall be made by the said Derby Canal Company for all the Tithes, both great and small, of the Lands which shall be taken or made Use of by them for the Purposes of this Act, to the several Persons who now are entitled, or at any Time hereafter might have become entitled to such Tithes, according to their respective Interests therein, such Tithes to be estimated at the Average Value of the Four Years commencing at Michaelmas Day One thousand seven hundred and eighty-eight, and ending at Michaelmas Day One thousand seven hundred and ninety-two, such Value to be ascertained (in case of any Difference concerning the same) in like Manner as the Value of any other Lands or Hereditaments are herein-before directed to be ascertained: Provided always, that such Recompence and Satisfaction shall be made to all Spiritual Persons by an Annual Rent.

Purchase Monies to be laid out to the same Uses.

XLI. And be it further enacted, That all Sums of Money that are to be paid to any Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees whatsoever, for or on Behalf of any Infants, Lunaticks, Idiots, Femes Covert, or other Cestuique Trusts, or to any Person or Persons whose Lands are limited in strict Settlement for the Purchase or Exchange of any Lands or Grounds as aforesaid, shall, in case the same shall exceed the Sum of Twenty Pounds, be by such Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, or Person or Persons seised of Lands or Grounds so limited in strict Settlement, laid out, as soon as conveniently may be, in the Purchase of other Lands, Tenements, or Hereditaments in Fee Simple, which shall be conveyed to, for, upon, and subject to such Uses, Trusts, Limitations, Remainders, and Contingencies, as the Lands and Grounds for or in respect whereof such Purchase Money or Monies shall be paid, or Lands, Tenements, or Hereditaments shall be so received in Exchange as aforesaid, were limited, settled, and assured, at the Time

Time such Purchase Monies or Exchanges were so agreed for or ascertained as aforesaid, or so many of such Uses as shall be then existing and capable of taking Effect, such Conveyances and Settlements (other than those which concern any Purchase or Exchange between any of the respective Land Owners as aforesaid) to be made at the Expence of the said Derby Canal Company, and in the mean Time, and until such Purchase or Purchases shall be made, the said Monies, and also all such Sums as shall not exceed the Sum of Twenty Pounds, shall be placed out by such Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, Person or Persons, in some of the publick Funds, or Government or Real Securities, in the Names of Two or more Persons, the One to be nominated by the Parties interested therein, and the other by the said Commissioners, or any Five or more of them, and the Interest arising or to be produced from any such Funds or Securities shall be paid to such Person or Persons respectively as would for the Time being be entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments, so to be purchased, in case the same were purchased and settled as aforesaid.

Disposal of the Compensation for Commons.

XLII. Provided always, and be it further enacted, That such Part of the Compensation to be made as aforesaid, to which any Person shall be entitled to, for, or in respect of their Right of Common upon any Commons or Waste Lands, through or over which the said intended Canal and Cut shall be made, shall be paid to the Surveyors of the Highways within the respective Parishes or Townships to which such Commons or Waste Lands do belong, and shall be by such Surveyors applied towards the Repairs of such Highways.

Commissioners to settle the Proportions of the Money to be paid to the several Persons interested.

XLIII. And be it further enacted, That the said Commissioners, or any Five or more of them, may, and they are hereby impowered to settle what Shares and Proportions of the Purchase Monies, or Recompence for Damages, which shall be so agreed for, or determined and adjusted by the said Commissioners, or any Five or more of them, or assessed by the said Jurors in Manner respectively as aforesaid, shall be allowed to any Tenant, or other Person or Persons, having a particular Estate, Term, or Interest in the Premises, for his, her, or their respective Interests therein.

The Company may pay Purchase Monies to Mortgagees.

XLIV. Provided always, and be it further enacted, That in case any Lands, Tenements, or Hereditaments, to

to be taken and used for the Purposes of this Act, shall be in Mortgage to any Person or Persons, it shall be lawful for the said Derby Canal Company, upon Application being made to them by the Mortgagee or Mortgagees thereof, his, her, or their Executors or Administrators for that Purpose, to pay such Sum or Sums of Money as shall have been so agreed for, adjusted, or assessed as aforesaid, for the Purchase of, or for the Damage done to, such Lands, Tenements, or Hereditaments in Mortgage, in Part of the Principal Money which shall be due thereon unto such Mortgagee or Mortgagees, his, her, or their Executors or Administrators: Provided always, that upon Receipt of such Sum or Sums, such Mortgagee or Mortgagees, his, her, or their Executors or Administrators respectively, shall acknowledge the Receipt thereof by an Indorsement to be made upon the Back of such Mortgage or Mortgages, signed by such Mortgagee or Mortgagees, his, her, or their Executors, or Administrators respectively, in the Presence of One or more credible Witness or Witnesses, in Satisfaction of so much of the Principal Money due upon such Mortgage or Mortgages.

Mortgagees to give Receipt.

Upon Default in Payment, Commissioners authorized to receive Rates.

XLV. And be it further enacted, That in Default or Refusal of Payment by the said Derby Canal Company, of such Sum or Sums of Money, at such Times, and in such Manner, as shall be awarded or assessed for Recompence for Damages of any Kind by virtue of this Act, it shall be lawful for the said Commissioners, assembled at a Meeting, and they are hereby authorized and required, under their Hands, to appoint One or more Person or Persons (from whom the said Commissioners shall take a proper Security) to collect and receive the Tolls, Rates, and Duties by this Act imposed, or any of them, and thereout in the First Place to pay all such Damages so to be awarded or assessed as aforesaid, and the Costs, if any, occasioned by such Default or Refusal of Payment thereof, together with legal Interest for the same, to be computed from the Time such Recompence for Damages shall be awarded or assessed, and all the Costs and Expences of collecting and receiving the said Tolls, Rates, or Duties, and the Money so to be received by such Person or Persons shall and is hereby declared to be as so much Money received to and for the Use of the Person or Persons who shall be entitled to such Recompence for Damages as aforesaid, in Order and Course respectively as such Award or Assessment shall be in Priority of Time; and after such Recompence, Interest, and Costs shall be paid and satisfied, the Power and Autho-

rity of such Receiver or Receivers, for the Purposes aforesaid, shall cease and determine, or otherwise the Party or Parties so aggrieved shall and may recover such Sum or Sums of Money, so to be awarded or assessed, and which shall not be paid as aforesaid, with Interest, by Action at Law, in any of his Majesty's Courts of Record at Westminster, against the said Derby Canal Company, or their Successors, with all Costs of Suit; or otherwise it shall be lawful for the said Commissioners, assembled at a Meeting to be held as aforesaid, in case such Recompence, Interest, and Costs, shall not be satisfied and paid within the Space of Four Calendar Months after such Recompence shall be so awarded or assessed as aforesaid, on Complaint made to them by and on the Behalf of the Person or Persons sustaining such Damages, to issue their Warrant or Warrants, under their Hands and Seals, to the Sheriff of the said County of Derby, authorizing and requiring him to levy and raise such Recompence, Interest, and Costs as aforesaid, by Distress and Sale of the Goods and Chattels of the said Derby Canal Company, together with such other reasonable Charges as the said Commissioners shall in such Warrant or Warrants direct and appoint.

For compelling Payment of Annual Rents.

XLVI. And be it further enacted, That such Annual Rents as shall be agreed upon, or settled or ascertained to be paid for any Lands, Grounds, or Hereditaments, holden for the Purposes of this Act as aforesaid, shall be deemed a Freehold Estate of Inheritance, issuing out of the said Canal and Cut, and shall be charged on the Tolls, Rates, or Duties herein-after granted to the said Derby Canal Company, and shall be paid by them as aforesaid, as the same shall become due and payable; and it shall be lawful for the said Commissioners, assembled at a Meeting to be held as aforesaid, by any Order under their Hands, to appoint One or more Person or Persons to receive the said Tolls, Rates, or Duties, and to pay the same to such Person or Persons to whom such Annual Rent or Rents so in Arrear shall be due, the said Commissioners taking such Security from every such Collector for the due and faithful Execution of his Office, as they shall judge proper and sufficient, and the Power and Authority of every such Collector shall continue until such Annual Rent or Rents so in Arrear, with the Costs and Charges of recovering and receiving the same, shall be fully paid and satisfied, or such Person or Persons to whom such Annual Rent or Rents shall be due and owing, shall recover the same with Costs of Suit by Action of Debt in any of his Majesty's Courts of Record at West-

minister, or otherwise it shall be lawful for such Person or Persons, and he and they is and are hereby impowered to seize and distrain any Boats, Barges, or Vessels, Waggons, Carriages, or other Goods and Effects of the said Derby Canal Company, which shall be found on the said Canal and Cut, or on the said Rail Ways or Stone Roads, or in, upon, or about the Wharfs, Quays, Warehouses, or other Works belonging to the said Derby Canal Company, and to detain the same until Payment of such Rent or Rents, together with the reasonable Charges attending such Distress; and if such Boats, Barges, or Vessels, Waggons, Carriages, Goods or Effects so to be distrained as aforesaid, shall not be redeemed within Five Days after the same shall be taken, and Notice thereof given in Writing to the Clerk of the said Derby Canal Company, then the same shall and may be appraised and sold in such Manner as the Law directs in Cases of Distress for Rent.

The Remedies may be used for recovering the Rents.

XLVII. Provided always, and be it further enacted, That the Person or Persons to whom such Annual Rents, or such Sums of Money for Damages, shall be payable as aforesaid, shall and may, for the Recovery thereof, use all or any of the Remedies by this Act given or provided for the Recovery of the same.

Mines reserved to Lords of Manors, or to other Proprietors.

XLVIII. And be it further enacted, That this Act shall not extend to defeat, prejudice, or affect the Right of any Lord or Lords, Lady or Ladies of any Manor or Manors, or of any Owner or Owners of any Lands or Grounds in, upon, or through which the said intended Canal and Cut, Rail Ways or Stone Roads, or any Towing Paths, Wharfs, Quays, Trenches, Sluices, Passages, Watercourses, or Conveniencies aforesaid, shall be made to the Mines or Minerals lying and being within or under any of the Lands or Grounds to be set out or made Use of for the Purposes aforesaid, but all such Mines and Minerals are hereby reserved to the Lord or Lords, Lady or Ladies of such Manor or Manors, and to such Owner or Owners of such Lands or Grounds respectively, and that all such Coals, Lime Stone, Iron Stone, and other Stone and Minerals, which shall be found and dug up in making the said Canal and Cut, or any other Works hereby authorized to be made, shall be laid upon the Surface of the Land in some convenient Place, at the Expence of the said Derby Canal Company, and shall be used, removed, taken away, sold, or disposed of, by the Person or Persons entitled thereto, unless the said Stone shall be judged necessary for the Purposes of the said Undertaking, in which Case it shall be taken and

used

used by the said Derby Canal Company, making such Compensation for the same as aforesaid.

For fencing off Towing Paths, and making Bridges, &c.

XLIX. And be it further enacted, That the said Derby Canal Company shall at their own proper Costs and Charges divide and separate, and constantly keep divided and separated, the said Rail Ways or Stone Roads, and the said Towing Paths on the Sides of the said intended Canal and Cut, and the Trenches, Feeders, and Aqueducts to be made by virtue of this Act, and such Part of such Trenches, Feeders, and Aqueducts, and in such Manner as shall be thought necessary by the said Commissioners assembled at any Meeting to be held as aforesaid, from the Lands and Grounds adjoining to such Rail Ways or Stone Roads, Towing Paths, Trenches, Feeders, and Aqueducts respectively, with good and sufficient Posts, Rails, Hedges, Ditches, and other Fences, to be set or made on the Lands or Grounds which shall be purchased by and conveyed to the said Derby Canal Company as aforesaid; and also shall at their own Costs and Charges make and set up, and from Time to Time maintain and support in good Repair, such and so many convenient Gates and Stiles upon and across the said Towing Paths, and in and through the Hedges and Fences to be by them so made on the Sides of such Rail Ways or Stone Roads, and such Towing Paths as aforesaid, and also such Bridges, Arches, Culverts, Drains, or Passages, over, under, or by the Side of, or into the said Canal and Cut, Rail Ways or Stone Roads, and the Feeders, Trenches, and Watercourses communicating with the said Canal and Cut, at such Places, and of such Dimensions, and in such Manner, as the said Commissioners shall from Time to Time judge necessary and appoint, in case there shall be any Dispute about the same, for the Use of the Owners and Occupiers of the Lands, Grounds, or Hereditaments, adjoining to such Canal and Cut, Rail Ways or Stone Roads, Trenches, Streams, Watercourses, and Towing Paths, and of all Persons who now have, or hereafter may have a Right to any Way over or through the Lands and Grounds which shall be used for making the said Canal and Cut, Rail Ways or Stone Roads, Trenches, Watercourses, Towing Paths, or any of them respectively; and that the said Derby Canal Company shall also make such proper and convenient Watering Places for Cattle, where by Means of the said Canal, Cut, and other Works hereby authorized to be made, Cattle shall have been deprived of the Watering Places which they were before accustomed to drink and

water at, and at all Times supply the same with Water, in such Manner as the said Commissioners shall direct; and also that the said Derby Canal Company shall not make the said Canal and Cut, or any Trench or Watercourse, across any common highway, publick Bridle Way or Foot Road, until such Time as they shall, at their own Expence, have made and perfected such Bridge or Bridges over, or other convenient Passages through, or Arch or Arches under the said Places, where the said Canal and Cut, Trenches, and Watercourses respectively, shall be intended to be made, of such Dimensions, and in such Manner, as the said Commissioners shall judge proper; and all such Gates, Stiles, Fences, Bridges, Arches, Culverts, Drains, and other Conveniences, to be made by the said Derby Canal Company, for the Purposes aforesaid, either with or without the Direction of the said Commissioners, shall from Time to Time be supported, maintained, and kept in Repair by the said Derby Canal Company; and in case it shall be found necessary to alter or widen any Arch or Arches now existing, the same shall afterwards be repaired from Time to Time, at the joint and equal Expence of the Person or Persons now liable to repair the same, and of the said Derby Canal Company.

Directions respecting Towing Path, &c. near *Osmaston*.

L. Provided always, and be it further enacted, That this Act shall not authorize or impower the said Derby Canal Company to erect any Buildings, or make any Fences, within the Parish of Osmaston, next Derby aforesaid, in such Manner as to impede or obstruct the Views from Osmaston Hall, and that the Fences to be made on the Side of the Towing Path of the said Canal, within the Lands of Sir Robert Wilmot Baronet, in the said Parish of Osmaston, shall be sunk and planted below the Surface of the Lands adjoining the upper Side of the Canal, and always kept cut in such Manner as never to be more than One Foot above the said Surface; and in case the said Fences shall be suffered to grow and be above One Foot higher than the Surface of the adjoining Lands, it shall and may be lawful to and for the Owner or Occupier of the said Osmaston Hall for the Time being to cause the said Fences to be cut to the Level of the said Surface, and the Costs and Expences of cutting the said Fences, to be settled by any One Justice of the Peace for the said County of Derby, (which Costs and Expences any One such Justice is hereby authorized and required to settle), shall be paid by the said Derby Canal Company, and shall and may be recovered in

in such Manner as any Penalty is herein-after mentioned and directed to be recovered.

In case Company do not fence off the Towing Paths, and make Bridges, Land Owners may do it at the Company's Expence.

LI. And be it further enacted, That in case the said Derby Canal Company shall fail or neglect to make, erect, and set up such Fences on the Sides of the said Rail Ways or Stone Roads, Towing Paths, Trenches, Feeders, and Aqueducts, and such Gates and Stiles in and over the said Fences and Towing Paths, or such Bridges, Arches, Culverts, Drains, or Passages over, under, or through the said Canal and Cut, Trenches, Streams, and Watercourses as aforesaid, or to make such Watering Places for Cattle as herein-before directed, for the Use and Convenience of such Persons as herein-before mentioned, and of such Dimensions, and in such Manner, as the said Commissioners, assembled at a Meeting to be held as aforesaid, shall from Time to Time direct and appoint, (in case there shall be any Dispute about the same), or to maintain or support such Fences, Gates, Stiles, Bridges, Arches, Culverts, Drains, and Watering Places, when erected, set up, and made, or altered as aforesaid, for the Space of Three Calendar Months next after the Times to be appointed for those Purposes by the said Commissioners, then, and in every such Case, it shall be lawful for every or any of the said Owners or Occupiers of the said adjacent Lands or Grounds, and every other Person or Persons who shall find themselves, himself, or herself, aggrieved by such Failure or Neglect, to make and set up such Fences, Gates, Stiles, Bridges, Arches, Culverts, Drains, Passages, Watering Places, and other Conveniencies, as the said Commissioners shall have before directed or appointed to be made, erected, and set up by the said Derby Canal Company as aforesaid, and to maintain, repair, and support the said Fences, Gates, Bridges, Stiles, Arches, Culverts, Drains, Passages, Watering Places, and other Conveniencies, from Time to Time, as Occasion shall require, and all the reasonable Costs and Charges thereof, to be settled and allowed by the said Commissioners present at such Meeting as aforesaid, or any Five of them, shall be repaid to the Person or Persons who shall make, erect, or repair the said Fences, Gates, Stiles, Bridges, Arches, Culverts, Drains, Passages, Watering Places, or other Conveniencies, by the said Derby Canal Company, within the Space of Twenty Days next after the same shall have been so settled and allowed, and an Account and Demand shall have been delivered and made thereof to the Clerk of the said Derby Canal Company for the Time being;

and in Default of Payment of the said Costs and Charges within the Time aforesaid, it shall be lawful for the said Commissioners present at such Meeting as aforesaid, and they are hereby required, by Warrant under their Hands and Seals, to levy the said Costs and Charges by Distress and Sale of the Goods and Chattels of the said Derby Canal Company, to and for the Use of such Person and Persons who shall have so laid out and expended the same as aforesaid, rendering to the said Derby Canal Company, or their Agents, the Overplus (if any) after deducting the reasonable Charges of making such Distress and Sale, to be settled by the said Commissioners, or otherwise it shall be lawful for the said Owners or Occupiers of Lands, or other Person or Persons who shall have made, erected, set up, or repaired any such Fences, Gates, Stiles, Bridges, Arches, Culverts, Drains, Watering Places, or other Conveniencies, by virtue of the Powers hereby given, to sue for and recover such Costs and Charges against the said Derby Canal Company by Action of Debt, or on the Case, in any of his Majesty's Courts of Record at Westminster.

In case Bridges, &c. made by the Company are insufficient, Land Owners may make others.

LII. And be it further enacted, That if the Owners or Occupiers of any Lands through which the said Canal, Cut, Trenches, Feeders, and Aqueducts shall be made, or any other Person or Persons having a Right to a Way or Passage over such Lands, shall, at any Time or Times hereafter, be of Opinion that the several Gates, Stiles, Bridges, Arches, Culverts, Drains, Passages, Watering Places, or other Conveniencies, which shall have been made by the said Derby Canal Company, either with or without the Directions of the said Commissioners, in, upon, over, under, or through the said Canal, Cut, Trenches, Feeders, and Aqueducts, or on the Sides of the said Rail Ways or Stone Roads, or the Towing Paths of the said Canal and Cut, are insufficient, either in Number or Situation, for the commodious Use, Occupation, and Drainage of the respective Lands and Grounds on both Sides, or on either Side of the said Canal, Cut, Rail Ways, or Stone Roads, Trenches, Feeders, and Aqueducts, respectively, and shall either not chuse to apply to the said Commissioners in Manner herein-before directed, in order to have their Grievances redressed, or shall apply to the said Commissioners, without Success, then and so often, and in any such Case, it shall be lawful for such Owners and Occupiers of the said Lands for the Time being, or such other Person or Persons as aforesaid, with the Consent and Approbation of the Committee of Proprietors for the Time

Time being, upon Request made to them for that Purpose, or in case of their Refusal for the Space of Ten Days after such Request, then with the Consent and Approbation of the Commissioners present at a Meeting to be held as aforesaid, or the major Part of them, to make, fix, and erect, at their own Costs and Charges, such Gates, Stiles, Bridges, Arches, Culverts, Drains, Passages, Watering Places, and other Conveniencies, in, over, or near the said Canal, Cut, Trenches, Feeders, and Watercourses, and the Sides of the said Rail Ways or Stone Roads, and the Towing Paths of the said Canal and Cut, in such Places as shall be found and adjudged most necessary and convenient for the better Use, Cultivation, Drainage, Improvement, or Occupation of the said Lands, and to repair and support the same respectively at their own like Costs and Charges, as Occasion shall require, so as the Navigation or Passage of, in, or upon the said Canal, Cut, Rail Ways or Stone Roads, Trenches, Feeders, Aqueducts, or Towing Paths respectively, be not prevented or obstructed thereby for any longer Space of Time, or in any other Manner, than the same will necessarily be by any of the other Gates, Stiles, Arches, Culverts, or Bridges to be made or erected by, in, or over the same, by the said Derby Canal Company as aforesaid, and so as no greater Damage or Injury be thereby done to any of the Works of the said Company than will necessarily be done by the said other Gates, Stiles, Arches, Culverts, or Bridges to be made or erected by them as aforesaid.

Bank to be made round Mr. *Duesbury*'s House, and China Manufactory.

LIII. And be it further enacted, That the said Derby Canal Company shall, and they are hereby required, previous to the Completion of the said intended Canal and Cut, at their own Costs and Charges, make and erect, or cause to be made and erected, a good, substantial, and Water-tight Bank, to commence on the Eastwardly Side of the Mansfield Turnpike Road, opposite to the Weighing Machine next to Saint Mary's Bridge in the said Parish of Saint Alkmund, and to proceed from thence in a South-eastwardly Direction to the Nottingham Turnpike Road at the Eastwardly Extremity of the China Manufactory and Buildings belonging to William Duesbury, which said Bank, in every Part thereof, shall be of sufficient Height to protect the said China Manufactory and Buildings of the said William Duesbury from the Flood Waters flowing down the River Derwent, and shall at all Times thereafter be maintained and kept in proper Repair by the said Derby Canal Company.

LIV. And

If Company refuse, Mr. *Duesbury* may do it;

LIV. And be it further enacted, That in case the said Derby Canal Company shall refuse or neglect to make and erect such Bank within the Time aforesaid, or to repair, maintain, and support the same when made as hereinbefore directed, within the Space of Six Calendar Months after Notice shall be given by the said William Duesbury, or the Person or Persons who for the Time being shall be entitled to the said China Manufactory and Buildings, it shall be lawful for the said William Duesbury, or such Owner or Owners for the Time being as aforesaid, to make and erect such Bank, or to maintain, repair, or support the same, as the Case may happen; and all the reasonable Expence thereof, together with the Costs and Charges attending the same, (to be settled and allowed by the said Commissioners, or any Five of them), shall be repaid to the said William Duesbury, or such Owner or Owners for the Time being as aforesaid, by the said Derby Canal Company, within the Space of Three Calendar Months next after the same shall have been so settled and allowed, and an Account and Demand shall have been delivered and made thereof; and in Default of such Payment, the said William Duesbury, or such Owner or Owners for the Time being as aforesaid, shall and may sue for and recover the same against the said Derby Canal Company, by Action of Debt or on the Case, in any of His Majesty's Courts of Record at Westminster.

and recover the Expence from them.

Company to make Drains, &c.

LV. And be it further enacted, That the said Derby Canal Company shall, at their own proper Costs and Charges, make or cause to be made such Arches, Tunnels, Drains, or other Passages into, over, or under the said Canal, Cut, Rail Ways or Stone Roads, hereby authorized to be made, and the Trenches, Streams, and Watercourses communicating with the said Canal or Cut, and the Towing Paths on the Sides thereof, of such Depth and Breadth as shall be sufficient at all Times to convey the Water from the Lands adjoining or lying near the said Canal, Cut, Rail Ways, or Stone Roads, without obstructing or impeding the same, and shall likewise make, or cause to be made, such Back Drain or Drains as shall be necessary and sufficient to carry off any Water which may ooze and pass through any of the Banks of the said Canal and Cut, to the Prejudice of any of the Lands or Grounds contiguous thereto, and all such Arches, Tunnels, Drains, and other Passages shall from Time to Time be supported, maintained, and kept in Repair by the said Derby Canal Company; and if at any Time or Times, after One Calendar Month's

Notice shall have been given in Writing, by or on Behalf of the Owner or Occupier, Owners or Occupiers of the said adjacent Lands, who shall find him, her, or themselves aggrieved by the Obstruction of the said Watercourses, to any One of the Committee to be appointed by virtue of this Act, or to the known Agent or Collector of the Rates, the said Arches, Tunnels, Drains, or other Passages, shall not be made, cleansed, repaired and maintained, according to the true Intent and Meaning of this Act, it shall be lawful for any Person or Persons, having an Order in Writing for that Purpose from the said Commissioners, or any Five of them, from Time to Time, as often as there shall be Occasion, to make, cleanse, and repair such Arches, Tunnels, Drains, or other Passages, and the reasonable Expences thereof, to be ascertained by the said Commissioners, shall be defrayed by the said Derby Canal Company; and in case of Refusal or Neglect to satisfy the same for the Space of Three Calendar Months after Demand thereof made upon their Agent or Agents, or upon any Collector of the said Rates, such Expences shall be recovered and levied in such Manner as the Costs and Charges of making and erecting Bridges and other Works, by the Owners or Occupiers of Lands, are by this Act directed and appointed to be recovered.

Power to make Rail Ways.

LVI. And be it further enacted, That in case any Proprietor or Proprietors of any Manor or Estate containing any Mines of Coal, Lime Stone, Iron Stone, or other Minerals, or the Renters, Lessees, or Occupiers thereof, shall find it expedient or necessary to make any Rail Ways or Roads to convey his, her, or their Coals, Iron Stone, Lime Stone, Marble, or other Stone or Minerals to the said intended Canal, Cut, Rail Ways, or Stone Roads, hereby authorized and directed to be made, or any of them, over the Lands and Grounds of any Person or Persons whomsoever, then, and in such Case, it shall be lawful for him, her, or them to make any such Rail Ways or Roads, he, she, or they first paying or tendering Satisfaction for the Damages thereby occasioned to such Lands or Grounds, in Manner herein directed with respect to Land to be taken for the Purposes of this Act; and it shall also be lawful for the Owner or Owners of, and Person or Persons interested in such Lands or Grounds, to treat and agree with any such Proprietor, Renter, Lessee, or Occupier, for the Damage to be done to such Lands or Grounds by making any such Rail Way or Road; and in case they cannot agree concerning the Amount or Value of such Damage, or in

case the Owner or Owners of, or Person or Persons interested in such Lands or Grounds shall refuse or neglect to treat, or by reason of Absence, legal Incapacity, or otherwise, shall be prevented from treating, then the same shall be settled and ascertained by the said Commissioners, and be subject to the Verdict of a Jury, if required, in such and the like Manner as the Value of the Lands to be taken for making the said Canal, Cut, Rail Ways, or Stone Roads, are by this Act directed to be settled and ascertained.

Owners of Mines, &c. may make Cuts over their own Land to join the Canal.

LVII. And be it further enacted, That it shall and may be lawful for the Proprietor or Proprietors of any Lands or Grounds, or of any Mines of Coal, Iron Stone, Lime Stone, or other Minerals, to make any Navigable Cut or Cuts through his, her, or their own Lands, in such Manner as he, she, or they shall think proper, to communicate with the said intended Canal and Cut, or either of them, so that the same be done without diverting any Streams of Water which are necessary for supplying the said intended Canal and Cut, or either of them, or any other Canal or Cut which shall be necessary for the working of any Furnaces, Forges, or Mills, and without doing any Injury or Damage to the said Navigation, and so and in such Manner that the Rates herein made payable to the said Derby Canal Company may not thereby be evaded, and so as the Person or Persons making every such Cut shall (if thereunto required by the said Derby Canal Company) make, erect, and maintain a Stop Gate or Stop Gates on every such Cut, in order to prevent the Water being drained or wasted out of the said intended Canal and Cut, by means of making any such Cut to communicate therewith as aforesaid.

Lords of Manors and Owners of Estates may make Wharfs and erect Warehouses.

LVIII. And be it further enacted, That the Lord or Lords, Lady or Ladies of any Manor or Manors, and the Owner or Owners of any Lands or Grounds, near to, through, over, or by which the said intended Canal and Cut, Rail Ways, or Stone Roads shall be made, may erect and use any Wharfs, Quays, Landing Places, Cranes, Weigh Beams, or Warehouses, in or upon their respective Lands, Grounds, or Wastes, adjoining or near to the said intended Canal, Cut, Rail Ways, or Stone Roads, with necessary Roads or Ways to the same, and may land Coal, Lime, Goods, Merchandize, and other Things upon such Wharfs, Quays, or Landing Places, or upon the Banks lying between the same and the said intended Canal, Cut, Rail Ways, or Stone Roads, and also may make and use proper and convenient Places for Boats, Barges, and other Vessels to lie in,

turn, and pass by each other, without the Molestation or Hindrance of the said Derby Canal Company; so that the making or using thereof do not obstruct or prejudice the Navigation and Business of the said Canal, Cut, Rail Ways, or Stone Roads; and that all Rates or Tolls which shall be paid for the Use of such Wharfs, Quays, Landing Places, Cranes, Weigh Beams, and Warehouses respectively, shall be, and the same are hereby accordingly vested in the Lord or Lords of such Manors, or the Owner or Owners of such Lands or Grounds, who shall make and erect the same as aforesaid.

If Lords of Manors, or Owners of Estates neglect, the Company may make Wharfs, &c.

LIX. And be it further enacted, That if any such Lord or Lords, Owner or Owners, shall not, within the Space of Twelve Calendar Months next after Notice given in Writing to him, her, or them, by or on Behalf of the said Derby Canal Company, that any Part of such Lands, Grounds, or Wastes is necessary or proper to be used by them for the Purpose of erecting and making Wharfs, Quays, Landing Places, Warehouses, and Buildings for the Use of the said Navigation and Undertaking, or for making and laying out necessary and convenient Roads for the Conveyance of Goods to and from the said Canal and Cut, make, erect, and lay out, and from Time to Time maintain and keep in good and substantial Repair, such proper and sufficient Wharfs, Warehouses, Buildings, and Roads, for the Use of the said Navigation and Undertaking as the said Commissioners shall think necessary, on the respective Part or Parts of the Lands and Grounds described in such Notice, then, and in such Case, the said Derby Canal Company shall have full Power and Authority, without any Hindrance or Restraint whatsoever, to make use of such Lands, Grounds, or Wastes, for erecting and building proper and sufficient Wharfs, Quays, Landing Places, Warehouses, and Buildings, and making and laying out necessary and convenient Roads to and from the said Canal and Cut, agreeably to such Notice as aforesaid, first making Satisfaction for the same in such Manner as is herein-before directed with respect to any other Lands or Grounds which shall be taken or used by the said Derby Canal Company for the Purposes of this Act.

Regulations respecting private Wharfs.

LX. And be it further enacted, That this Act shall not authorize or impower the said Derby Canal Company, or any other Person or Persons to make use of any Wharfs, Quays, Landing Places, Cranes, Weigh Beams, or Warehouses which shall be set out, erected, or made by the Lord or Lords of any Manor, or the Owner or Owners of any Lands or Grounds adjoining or near to the said Canal

Canal and Cut, for his, her, or their own private Use only, or to set up, erect, or use any Cranes or Weighing Machines in or upon any such Wharfs, Quays, or Landing Places, without the Consent of such Lord or Lords, Owner or Owners; and that no more than the Sum of One Penny per Ton shall be demanded or taken by any such Lord or Lords, Land Owner or Land Owners, who shall make, erect, or build any such Wharfs or Quays, or make or lay out any Roads to and from the said intended Canal and Cut, in pursuance of the Notice to be given by or on the Behalf of the said Derby Canal Company to such Lord or Lords, Owner or Owners, for that Purpose as aforesaid, for the Wharfage of any Coals, Coak, Lime, Lime Stone, Clay, Iron, Iron Stone, Timber, Stone, Brick, Tile, Slate, or Gravel, not more than Three-pence per Ton for the Wharfage of any other Goods, Wares, Merchandize, or Things whatsoever, where the same shall be respectively placed and remain upon any such Wharfs or Quays, and shall not continue thereupon for a longer Space of Time than Six Days, except Coal, Coak, Lime, Lime Stone, Clay, Iron, Iron Stone, Timber, Stone, Brick, Tile, Slate, or Gravel, which may remain Thirty Days upon Payment of the said One Penny per Ton: Provided nevertheless, That in case any of the said Articles shall be left and remain in or upon such Wharfs or Quays for the Space of Ten Days over and above the Time hereby limited for the same respectively, then the Owners of such Articles shall pay to the Proprietors of such Wharfs or Quays One Penny per Ton per Day, for the Time such Articles shall remain upon such Wharfs or Quays after the Expiration of the said Ten Days: Provided also, That it shall be lawful for the said Derby Canal Company to erect, repair, and use any Cranes or Weighing Machines upon any such Wharfs or Quays last mentioned, for the more convenient loading and unloading and weighing of any such Coals, or other Goods or Things, in case the Proprietors of such Wharfs or Quays shall neglect or refuse to make and erect the same, within Three Calendar Months after they shall have received Notice in Writing, for that Purpose, from the said Derby Canal Company, or when so erected neglect or refuse to keep the same in Repair.

Proprietors to raise Money among themselves.

LXI. And be it further enacted, That it shall be lawful for the said Derby Canal Company to raise and contribute amongst themselves, in such Proportions as to them shall seem meet and convenient, a competent Sum of Money for making and completing the said intended

Canal, Cut, Rail Ways, or Stone Roads, and the Reservoirs, Feeders, Ways, Quays, Wharfs, and other Works and Conveniences, not exceeding in the Whole the Sum of Sixty thousand Pounds (except as herein mentioned), and that the same be divided into such Number of Shares as herein directed, and the Money so to be raised is hereby directed and appointed to be laid out and applied, in the First Place, for and towards the Payment, Discharge, and Satisfaction of all Costs, Charges, and Expences in applying for, obtaining, and passing this present Act of Parliament, and all other necessary Expences preparatory and relating thereunto, and all the Residue and Remainder of such Money for and towards making, completing, and maintaining the said intended Canal, Cut, Rail Ways, or Stone Roads, and other the Purposes of this Act, and to no other Use, Intent, or Purposes whatsoever.

The Money to be divided into Shares of 100 *l.* each.

LXII. And be it further enacted, That the said Sum of Sixty thousand Pounds, or such Part thereof as shall be raised by the several Persons herein-before named, or by any other Person or Persons who shall or may become a Subscriber or Subscribers to the said Navigation, shall be divided into Six hundred equal Parts or Shares, at a Price not exceeding One hundred Pounds per Share, and that such Shares shall be numbered in regular Progression, and every such Share shall always be distinguished by the Number to be appointed for the same; and that the said Six hundred Shares shall be and are hereby vested in the several Persons so subscribing the same, and their several and respective Executors, Administrators, and Assigns, to their and every of their proper Use and Benefit, proportionably to the Sum they shall severally subscribe and pay thereunto; and all and every the said Shares shall be deemed Personal Estate, and transmissible as such, and not of the Nature of Real Property; and all Bodies Politick and Corporate, and every Person and Persons, their several and respective Executors, Administrators, and Assigns, who shall severally subscribe the Sum of One hundred Pounds, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Navigation, and Rail Ways or Stone Roads, shall be entitled to and receive, after the said Navigation, and Rail Ways, or Stone Roads, shall be completed, the entire and neat Distribution of a Six hundredth Part of the Profits and Advantages that shall and may arise and accrue by the Rates and other Sum or Sums of Money to be raised, recovered, or received by the Authority of

this Act, and so in Proportion for any greater Number of Shares; and every Body Politick or Corporate, Person or Persons, having such Property of a Six hundredth Part or One Share in the said Undertaking, and so in Proportion for any greater Number of Shares as aforesaid, shall bear and pay a proportionable Sum towards carrying on the said Undertaking in Manner herein directed and appointed.

Names of Proprietors to be entered, and Tickets of their Shares delivered to them.

LXIII. And, for the better Security of the several Proprietors of the said Undertaking to their respective Shares therein; be it further enacted, That the said Derby Canal Company shall and are hereby required, at their Second General Assembly, to cause the Names and proper Additions of the several Persons who shall be entitled to the Shares in the said Undertaking, with the Number of Shares to which they are respectively entitled, and also the proper Number by which every such Share shall be distinguished, to be fairly and distinctly entered in a Book to be kept by the said Derby Canal Company, and after such Entry to cause their Common Seal to be affixed thereto, and shall also cause a Ticket or Instrument, with the Common Seal of the said Derby Canal Company to be affixed thereto, to be delivered to every such Subscriber, upon Demand, specifying the Shares to which he or she is entitled in the said Undertaking, every such Proprietor paying to the Clerk Two Shillings, and no more, for every such Ticket or Instrument; and such Ticket or Instrument shall be admitted in all Courts whatsoever as Evidence of the Title of such Subscriber, his or her Executors, Administrators, and Assigns, to the Shares therein specified; but the Want of such Ticket or Instrument shall not hinder or prevent the Owner of any of the said Shares from selling or disposing thereof.

Proprietors to receive 5 *l. per Cent.* till Canal finished.

LXIV. And be it further enacted, That it shall be lawful for the said Derby Canal Company, and they are hereby required, out of the Money to be raised as aforesaid, during the Time the said intended Canal, Cut, Rail Ways, or Stone Roads, and all Things necessary for making and maintaining the same, shall be carried on, and until the same shall be completed and finished, to pay unto every Body Politick or Corporate, Person or Persons, their several and respective Executors, Administrators, or Assigns, who shall severally subscribe and pay in the Sum of One hundred Pounds, or such Sum or Sums of Money as shall from Time to Time be demanded in respect thereof, towards carrying on and completing the said Navigation and Rail Ways or Stone Roads,

Roads, Interest for the same after the Rate of Five Pounds for every One hundred Pounds for a Year, from the Time that each of such Sum and Sums shall be respectively advanced in pursuance and according to the true Intent and Meaning hereof.

Subscribers to have a Vote for every Share.

LXV. And be it further enacted, That all and every Body and Bodies Politick or Corporate, or other Person or Persons, who shall have subscribed for or become possessed of or entitled to One Share in the said Navigation or Undertaking, and their respective Executors, Administrators, and Assigns, shall be deemed a Proprietor for every such Share, and shall have a Vote for every such Share in the General and Special Assemblies to be held as herein appointed for carrying on the said Undertaking, which Vote may be given by him, her, or them, or by his, her, or their Proxy or Proxies, constituted under his, her, or their Hand or Hands, or under the Seal or Seals of such Body or Bodies Politick or Corporate, and such Vote or Votes by Proxy shall be as good and sufficient, to all Intents and Purposes, as if such Principal or Principals had voted in Person; and every Question, Matter, or Thing which shall be proposed, discussed, or considered in any General or Special Assembly of the said Derby Canal Company, to be held by virtue of this Act, shall be determined by the Majority of Votes and Proxies then present, computing One Vote to every Share: Provided nevertheless, that no Person shall act as Proxy for more than Five absent Proprietors; the Appointment of which Proxy shall and may be made in the Words or to the Effect following:

Appointment of Proxy.

I of One of the Proprietors of the *Derby* Canal Navigation, do hereby nominate, constitute, and appoint of to be my Proxy, in my Name and in my Absence to vote or give my Assent or Dissent to any Business, Matter, or Thing relating to the said Navigation and Undertaking, that shall be mentioned or proposed at any Meeting of the Proprietors of the said Navigation, or any of them, in such Manner as he the said shall think proper, according to his Opinion and Judgement, for the Benefit of the said Navigation and Undertaking, or any Thing appertaining thereto. In Witness whereof I have hereunto set my Hand, the Day of in the Year of our Lord

LXVI. And

Proprietors may raise an additional Sum, if necessary.

LXVI. And be it further enacted, That in case the said Sum of Sixty thousand Pounds herein-before authorized to be raised, shall be found insufficient for the making, completing, and maintaining the said intended Canal, Cut, Rail Ways, Stone Roads, and other the Works hereby authorized to be made, and all necessary Charges and Expences relating thereto, then, and in such Case, it shall be lawful to and for the said Derby Canal Company to raise and contribute amongst themselves, in Manner and Form aforesaid, and in such Shares and Proportions as to them shall seem meet, or by the Admission of new Subscribers, any further or other Sum of Money for completing and perfecting the said Navigation, Rail Ways or Stone Roads, and other Works, not exceeding the Sum of Thirty thousand Pounds, and every Subscriber towards raising such further or other Sum of Money shall be a Proprietor in the said Undertaking, and have a like Vote by himself or herself, or his or her Proxy, in respect of every such Share in the said additional Sum so to be raised, and shall also be liable to such Forfeitures, and stand interested in all the Profits and Powers of the said Navigation in Proportion to the Sum he, she, or they shall or may subscribe thereunto, as generally and extensively, to all Intents and Purposes, as if such further or other Sum, hereby allowed to be subscribed for and raised, had originally been Part of the said Sum of Sixty thousand Pounds, any Thing herein contained to the contrary thereof in anywise notwithstanding.

Power to raise Money by Mortgage.

LXVII. Provided always, That in case the said Derby Canal Company shall be desirous of raising the said Sum of Thirty thousand Pounds herein-before authorized to be raised, or any Part thereof, by Mortgage of the said Undertaking, it shall be lawful for the said Derby Canal Company, by an Order of any General Assembly of the said Company, to borrow and take up at Interest, all or such Part of the said Sum of Thirty thousand Pounds on the Credit of the said Navigation and Undertaking, as to them shall seem meet and convenient; and the said Derby Canal Company, or the Committee of the said Company, after an Order of any General Assembly, are hereby fully authorized and impowered to assign the Property of the said Navigation and Undertaking, and the Rates arising or to arise by virtue of this Act, or any Part thereof, (the Costs and Charges of assigning the same to be paid out of such Rates), as a Security for any such Sum or Sums of Money to be borrowed as aforesaid, with Interest, to such Person or Persons, or to his, her,

or their Trustees, who shall advance the same; all which said Assignments shall be made under the Common Seal of the said Company, in the Words or to the Effect following; (that is to say):

BY virtue of an Act of Parliament, made in the Thirty-third Year of the Reign of King *George* the Third, intituled, [*Set forth the Title of the Act*], we, the Company of Proprietors of the said Navigation, incorporated by and under the said Act, in Consideration of the Sum of to us in Hand paid by *A. B.* of do assign unto the said *A. B.* his [*or* her] Executors, Administrators, and Assigns, the said Navigation, and all and singular the Rates arising by virtue of the said Act, and all the Estate, Right, Title, and Interest of us the said Company of Proprietors, of, in, and to the same, to hold unto the said *A. B.* his Executors, Administrators, and Assigns, until the said Sum of together with Interest for the same, after the Rate of for every One hundred Pounds for a Year, shall be fully paid and satisfied. Given under our Common Seal, this Day of in the Year of our Lord

Form of Assignment.

And all and every Person and Persons to whom such Assignments shall be made shall be equally entitled One with the other to his, her, or their Proportion or Proportions of the said Rates according to the respective Sums in such Assignments mentioned to be advanced, without any Preference by reason of Priority of any such Assignment, or on any other Account whatsoever; and a Memorial of every such Assignment, containing the Date, Name or Names of the Person or Persons to whom made, the Sum of Money borrowed, and Rate of Interest, shall be entered in a Book or Books to be kept by the Clerk or Clerks to the said Derby Canal Company, which said Book or Books shall and may be perused at all seasonable Times by any of the Proprietors or Creditors of the said Navigation, or other Persons interested therein, without Fee or Reward; and all and every Person or Persons to whom any such Assignment or Assignments shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer his, her, or their Right or Interest therein to any Person or Persons whomsoever; which Transfer shall and may be made in the Words or to the Effect following:

Assignments may be transferred.

Form of Transfer.

I *A. B.* of in Consideration of the Sum of paid by *C. D.* of do hereby transfer a certain Mortgage made by the *Derby* Canal Company to bearing Date the Day of for securing the Sum of and Interest, and all my Right and Property therein, to the said *C. D.* his Executors, Administrators, and Assigns. Dated this Day of in the Year of our Lord

And every such Transfer shall, within Twenty-eight Days after the Date thereof, be produced to the Clerk or Clerks of the said Company, who shall cause a Memorial to be made thereof, in like Manner as the original Assignments, for which the said Clerk or Clerks shall be paid such Sum as the said Derby Canal Company shall appoint, not exceeding the Sum of Two Shillings; and after such Entry made every such Transfer shall entitle such Assignee or Assignees, his, her, and their Executors, Administrators, and Assigns, to the full Benefit thereof, and it shall not be in the Power of any Person or Persons who shall have made such Transfer to make void, release, or discharge the same, or any Sum or Sums of Money thereon due, or thereby secured, or any Part thereof.

The Interest of the Money borrowed to be paid in Preference to Dividends.

LXVIII. And be it further enacted, That the Interest of the Money which shall be borrowed by Mortgage as aforesaid shall be paid to the several Persons entitled thereto, in Preference to any Interest or Dividends due and payable by virtue of this Act to the said Derby Canal Company, or any of them, and shall from Time to Time be lawfully paid, discharged, or provided for, before the yearly or other Interest or Dividends due to the said Company, or any of them, shall be paid, made, or divided.

Assignees not to vote on account of having lent Money.

LXIX. Provided always, That no Person to whom any such Mortgage shall be made or transferred as aforesaid shall be deemed a Proprietor of any Share, or shall be capable of acting or voting as such, either as Principal or by Proxy, at any Meeting of the said Derby Canal Company, for or on Account of his or her having lent or advanced any Sum or Sums of Money on the Credit of such Mortgage.

General Assemblies to be held, and Committees appointed.

LXX. And be it further enacted, That the First General Assembly or Meeting of the said Derby Canal Company, for putting this Act into Execution, shall be held at

the Bell Inn in Derby, on the First Day of July One thousand seven hundred and ninety-three, and all future General Assemblies of the said Company shall be held upon the First Monday in the Month of June in every Year, at the Hour of Eleven in the Forenoon of the said Days, at such Places, within the said County of Derby, as the said Proprietors at each next preceding Assembly shall appoint, at which said General Assemblies the Proprietors assembled, together with such Proxies as shall be then present, shall chuse Nine Persons, who for the Time being shall be respectively Proprietors of Three or more Shares in the said Navigation, out of whom any Five or more of them shall be a Committee to manage the Affairs of the said Derby Canal Company, in such Manner as herein is directed; and if at any Time it shall appear to any Five or more Proprietors, possessed of Three Shares each, that for the more effectually putting this Act into Execution, or for any other Purpose, a Special Assembly of the Proprietors is necessary to be held, it shall be lawful for them to cause Notice to be given thereof in some Two or more Newspapers published or circulated in the Counties of Derby and Nottingham, or in such other Manner as the said Company shall at any General Assembly direct or appoint, declaring in such Notice the Place where, and the Time when, such Assembly is to be held, the same not being less than Ten Days after such Notice given, and likewise specifying in every such Notice the Reason and Intention of such Special Assembly; and the Proprietors are hereby authorized to meet pursuant to such Notice, and to proceed in the Execution of this Act, or in any Thing relating to the Interests of the said Derby Canal Company, with respect to the Matters so specified only; and all such Acts of the said Proprietors, or the major Part of them, assembled at such Special Assemblies, shall be as valid, to all Intents and Purposes, as if the same were done at General Assemblies held in Manner herein-before appointed.

Each Member of the Committee to have but One Vote, except as Chairman.

LXXI. Provided always, That no One Member of the said Committee, though he may be a Proprietor of many Shares, shall have more than One Vote in the said Committee, except the Chairman, who shall be chosen by and out of the said Committee, and who, in case of a Division of equal Numbers, shall have the casting Vote, although he may have given One Vote before.

Committee to be under Controul of the General Assemblies.

LXXII. Provided also, That such Committee shall from Time to Time make Reports of their Proceedings to, and be subject to the Examination and Controul of the

the General and Special Assemblies of the said Proprietors, and shall pay due Obedience to all such Orders and Directions in and about the Premises as shall from Time to Time be made by the said Proprietors, at any such General or Special Assembly, such Orders and Directions not being contrary to any express Directions or Provisions in this Act contained.

Disqualifications of serving on Committees.

LXXIII. Provided also, That no Person holding any Place, Office, or Employment under the said Derby Canal Company shall be capable of being chosen to serve upon any Committee, during the Time of his Continuance in such Place, Office, or Employment.

Books of Accounts to be kept.

LXXIV. And be it further enacted, That proper Books of Accounts, and other Matters relating to the said Undertaking and Navigation, shall be kept, and that all such Books and other Matters shall be deposited, under the Direction of the Committee for the Time being, at such Place or Places as the said Derby Canal Company shall from Time to Time direct, and every Proprietor or Proprietors, at all seasonable Times, shall have free Access to the same, for his, her, or their Inspection, without Fee or Reward.

General and Special Assemblies to consist of a certain Number of Shares.

LXXV. Provided always, That if at any such General or Special Assembly there shall not be Persons present who shall have Two hundred and fifty Shares, either as Principals or Proxies, no Choice of a Committee shall be made at that Time, but in such Case there shall be a new Assembly of the Proprietors of the said Navigation, upon that Day in the Week following, and so from Time to Time, until the Proprietors of such Number of Shares as aforesaid shall be present, and such Choice shall be then made of Persons to be of a Committee as ought to have been made on the Day for holding such General or Special Assemblies, had there been a sufficient Number of Votes present, and the Persons then chosen to be of the said Committee shall have the same Power as they would have had, and shall continue in such Office until such Time as they would have done, had they been chosen on the Day for holding such General or Special Assembly; and in case of Failure of the Meeting of Persons having Two hundred and fifty Shares, as Principals or Proxies, at any such General or Special Assembly, all such Principals, who shall not be present at any Adjournment thereof, by themselves, or by his, her, or their Proxies, shall forfeit to the said Derby Canal Company, for every such Share which he, she, or they shall then have in the said Navigation, the Sum of Five Shillings, to be deducted out of the next Payment of

Interest or Dividend of the Profits of the said Navigation, as the Case may happen.

Other Powers of General Assemblies.

LXXVI And be it further enacted, That every such General Assembly shall have Power to call for and settle all Accounts of Monies received, laid out, and disbursed, on Account of the said Navigation, by the Treasurer, Receivers, and other Officers, to be by them appointed, or any other Person or Persons whomsoever employed by or concerned for or under them in and about the said Navigation, and for that or any other Purpose shall have Power to adjourn themselves from Time to Time, and from Place to Place, as shall be thought convenient by the Persons present having, either as Principals or Proxies, a Majority of Votes; and every General Assembly, or such Committee as aforesaid, shall have Power from Time to Time to make such Call or Calls for Money from the Proprietors of the said Undertaking, to defray the Expences of, or to carry on the same, as they shall from Time to Time find necessary for those Purposes, so that no such Call do exceed the Sum of Ten Pounds for every Sum of One hundred Pounds, and so as no Calls be made but at the Distance of One Calendar Month at the least from each other, which Monies so called for shall be paid to such Person or Persons, and in such Manner, as the said General Assembly or Committee shall from Time to Time appoint and direct, for the Use of the said Undertaking; and such Committee shall, until the next General Assembly to be holden in Manner as aforesaid, meet at such Time and Place, and from Time to Time adjourn themselves to such other Time and Place, as they shall think fit; and in order to defray the Expences of the Meetings of the said Committees, it shall be lawful for the said Committee, and they are hereby allowed to expend or detain to themselves a reasonable Sum of Money out of the Capital Stock of the said Proprietors, for their Expences in attending such Meetings; and the said Committees shall have Power and Authority to direct and manage all and every the Affairs of the said Derby Canal Company, as well in buying and purchasing Lands and Materials for the Use of the said Navigation and other Works, as in employing, ordering, and directing the Works and Workmen, and in displacing Officers, Clerks, Servants, Agents, and Workmen, and in making all Contracts and Bargains touching the said Undertaking, so that no such Purchase, Bargain, or other Matters, be done or transacted without the Concurrence of Five or more of the said Committee then assembled; and every Owner or

Owners of One or more Share or Shares in the said Undertaking, shall pay his, her, or their Shares and Proportions of the Monies to be called for as aforesaid, at such Time and Place as shall be appointed, of which One Calendar Month's Notice at the least shall be given, (except the First Call, not exceeding Ten Pounds per Centum, which may be on Ten Days Notice), by publishing the same in some Two or more such Newspapers as aforesaid, or in such other Manner as the said Derby Canal Company shall, at any General Assembly, direct or appoint); and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the Money to be called for by the First Call to be made by virtue of this Act, at the Time and Place appointed as aforesaid, it shall be lawful for the said Derby Canal Company to sue for and recover the same in any of His Majesty's Courts of Record, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoin, Protection, or Wager of Law, or more than One Imparlance, shall be allowed; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for after the First Call as aforesaid, at the Time and Place so appointed, he, she, or they so neglecting or refusing, shall forfeit the Sum of Five Pounds for every One hundred Pounds of his, her or their respective Share and Shares, in the said Navigation and Undertaking; and in case such Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for as aforesaid, for the Space of Three Calendar Months after Notice given to him, her, or them, in Writing, of the Time appointed for Payment thereof as aforesaid, then he, she or they so neglecting or refusing shall forfeit his, her, or their respective Share and Shares in the said Navigation and Undertaking, and all the Profit and Benefit thereof, and all Money advanced by him, her, or them, to and for the Use and Benefit of the other Proprietors of the said Undertaking, and all such forfeited Shares shall be sold at a publick Sale by the said Derby Canal Company for the most Money they can get for the same, and the Produce thereof shall be equally divided amongst the rest of the Proprietors in Proportion to their respective Shares and Interests in the said Navigation and Undertaking.

Subscribers to have Notice before their Shares are forfeited.

LXXVII. Provided always, That no Advantage shall be taken of the Forfeiture of any Share or Shares of the

the said Navigation or Undertaking, until Personal Notice in Writing be given by the Clerk or Clerks, Treasurer or Treasurers of the said Derby Canal Company, to the Owner or Owners thereof, or left at his, her, or their usual or last Place of Abode, nor unless the same shall be declared to be forfeited at some General Assembly of the said Derby Canal Company, which shall be held after such Forfeiture shall happen, and every such Forfeiture shall be an Indemnification and Discharge to and for every Proprietor or Proprietors so forfeiting, against all Action and Actions, Suits or Prosecutions whatsoever, to be commenced or prosecuted for any Breach of Contract, or other Agreement between such Proprietor or Proprietors so forfeiting and the rest of the Proprietors, with regard to carrying on the said intended Navigation and Undertaking.

Company may remove Members of the Committee;

LXXVIII. And be it further enacted, That the said Derby Canal Company shall always have Power and Authority, at any General Assembly, to remove and displace any Person or Persons, chosen upon such Committee as aforesaid, or any Officer or Officers under them, and to revoke, alter, amend, or change, any of the Rules or Directions herein prescribed, or laid down, with regard to their Proceedings amongst themselves, as to the major Part of them shall seem meet, (the Method of calling General or Special Assemblies as aforesaid, and their Time and Place of meeting and voting, and appointing Committees, only excepted), and shall have Power to make such new Rules, Bye Laws, and Orders, for the good Government of the said Company, their Agents and Workmen, for making, maintaining, and using the said intended Canal, Cut, Rail Ways or Stone Roads, and the Warehouses, Wharfs, Fire Engines, and other Machines, Passages, Locks, Tunnels, and all other Things that shall be made for the same, and also for and concerning all such Vessels, Carriages, Goods, and Commodities, as shall be navigated and conveyed thereon, and also for the well governing of the Bargemen, Watermen, Boatmen, and others, who shall be employed in the conveying of any Goods, Wares, or Merchandizes, upon any Part of the said intended Canal, Cut, and Rail Ways or Stone Roads, and from Time to Time to alter and repeal the said Bye Laws, Orders, and Regulations, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same, as to the major Part of such General Assembly shall seem meet, not exceeding the Sum of Five Pounds for any One Offence,

and make Bye Laws.

such Fines and Forfeitures to be levied and recovered by such Ways and Means as are herein-after mentioned; which said Rules, Bye Laws, and Orders, being reduced into Writing, under the Common Seal of the said Company, shall be binding upon, and observed by all Parties, and shall be sufficient, in any Court of Law or Equity, to justify all Persons who shall act under the same, provided that they be not repugnant to the Laws of this Realm.

Subscribers dying before Shares are completed, Executors, &c. may complete the same.

LXXIX. And be it further enacted, That if the Proprietor of any Share or Shares in the said Undertaking shall die before Payment shall have been made of the full Sum to be advanced on each Share which he or they shall have been possessed of or entitled to, without having made Provision, by Will or otherwise, for Payment of the same, then, and in such Case, the Executors or Administrators of such Proprietor, and the Trustee or Trustees, Guardian or Guardians of any Infant, or other Person or Persons whomsoever, entitled to the Estate and Effects of such Proprietor, shall be indemnified against such Infant and other Persons whomsoever for paying any Money when called for as aforesaid to compleat every such Subscription; and if such deceased Proprietors shall not have left Assets sufficient, or in case any such Executors or Administrators, Trustees or Guardians, shall refuse or neglect to answer such Calls and Payments, the said Derby Canal Company shall, and they are hereby impowered to admit any other Person or Persons to be a Proprietor or Proprietors of the Share and Shares of such deceased Proprietor, on Condition that he, she, or they, so admitted, do and shall, on or before such Admission, pay to the Executors or Administrators of such deceased Proprietor, or to the Trustee or Trustees, Guardian or Guardians of any Infant, or others intitled to his, her, or their Effects, the full Money which shall have been paid by such deceased Proprietor in his, her, or their Life Time by virtue of any Call or Calls, or otherwise, upon such Share or Shares, or so much Money as the same can be sold for; and in Default of such Calls being answered and made good in Manner aforesaid, it shall be lawful for the said Derby Canal Company to sell and dispose of the Share or Shares of such deceased Proprietor or Proprietors, and they are hereby authorized and required to pay and apply the Money arising from such Sale, after deducting the Charges occasioned thereby, to or for the Benefit of the Representatives of such deceased Proprietor or Proprietors.

LXXX. And be it further enacted, That it shall be lawful for the several Proprietors of any Share or Shares of the said Undertaking to sell and dispose of any such Share or Shares, subject to the Rules and Conditions herein mentioned, and any Purchaser or Purchasers shall, for his, her, or their Security, as well as that of such Proprietor or Proprietors, have a Duplicate or Duplicates of the Deed of Assignment or Conveyance made to him, her, or them, and executed by such Person or Persons from whom he, she, or they shall purchase the same, and also by the Purchaser or Purchasers, One Part whereof so executed shall be delivered to the said Committee, or to their Clerk or Clerks, to be filed and kept for the Use of the said Company, and an Entry thereof shall be made in a Book or Books to be kept by the said Clerk or Clerks for that Purpose, for which not more than Two Shillings shall be paid, and the said Clerk or Clerks is and are hereby required to make such Entry accordingly; and until such Duplicate of such Deed shall be so delivered unto the said Committee or Clerk as aforesaid, such Purchaser or Purchasers shall have no Part or Share of the Profits of the said Navigation and Undertaking, nor any Interest paid to him, her, or them, for his, her, or their Share so purchased, or be entitled to a Vote as Proprietor or Proprietors of the said Navigation and Undertaking. Shares may be disposed of.

LXXXI. And be it further enacted, That after any Call of such Monies shall be made by the Authority of this Act, no Person or Persons shall sell or transfer any Share which he, she, or they shall have in the said Navigation and Undertaking, until the Monies called for upon such Share shall be paid, and every Person making Default herein shall forfeit his, her, or their Share of the said Navigation and Undertaking to the said Company, in Trust for the Benefit of all the other Proprietors, unless the Person or Persons who shall be Tender or Tenders shall at the Time of such Transfer pay the Money called for upon every Share so sold or transferred to the Treasurer of the said Company, such Forfeiture, nevertheless, shall be notified and declared at a General Assembly in Manner before directed. No Share to be sold after Call made, until the Money is paid.

LXXXII. And be it further enacted, That every Assignment or Transfer of the said Shares shall be in the Form or to the Effect following:

I *A. B.* of in Consideration of the Sum of paid to me by *C. D.* of do hereby bargain, sell, assign, and transfer Form of Transfer.

transfer to the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, Share or Shares in the *Derby* Canal Navigation, being Number of the Shares in the ſaid Navigation, to hold to the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, ſubject to the ſame Rules and Orders, and on the ſame Conditions on which I held the ſame immediately before the Execution hereof: And I the ſaid *C. D.* do hereby agree to accept of the ſaid Share or Shares, ſubject to the ſame Rules, Orders, and Conditions. Witneſs our Hands and Seals, the Day of in the Year of our Lord

To compel Payment of Subſcriptions.

LXXXIII. And be it further enacted, That the ſeveral Perſons who have ſubſcribed, or who ſhall hereafter ſubſcribe to advance any Money for and towards making and maintaining the ſaid intended Canal, Cut, Rail Ways, or Stone Roads, and the other Works hereby authorized to be made, ſhall and they are hereby required to pay the Sum or Sums of Money by them reſpectively ſubſcribed, or ſuch Parts or Proportions thereof as ſhall from Time to Time be called for by the ſaid Derby Canal Company, or the ſaid Committee, under and by virtue of the Powers and Directions of this Act, at ſuch Times and Places as ſhall be directed by the ſaid Derby Canal Company, or the ſaid Committee, in Manner before mentioned; and in caſe any Perſon or Perſons ſhall neglect or refuſe to pay the ſame at the Time and in Manner required for that Purpoſe, it ſhall be lawful for the ſaid Derby Canal Company to ſue for and recover the ſame in any Court of Law or Equity.

Officers to the Company to be appointed.

LXXXIV. And be it further enacted, That it ſhall be lawful for the ſaid Derby Canal Company at any General Aſſembly, and they are hereby authorized and required from Time to Time to nominate and appoint a Treaſurer or Treaſurers, Clerk or Clerks, and ſuch other Officers as they ſhall think proper, and to take ſuch ſufficient Security from every ſuch Treaſurer, and other Officer having the Care or Cuſtody of any Money to be raiſed or received by virtue of this Act, for the due Execution of their Offices, as the ſaid Derby Canal Company ſhall think proper, and from Time to Time to remove any ſuch Treaſurer or Treaſurers, Clerk or Clerks, and other Officer, and every ſuch Clerk or Clerks ſhall always attend the General Meetings and Aſſemblies of the ſaid Proprietors, and the Meetings of the ſaid Committee, and ſhall, in a Book to be provided for that Purpoſe, enter and keep a true and perfect Account of the Names

Names and Places of Abode of the several Proprietors of the said intended Canal, Cut, Rail Ways, or Stone Roads, and of the several Persons who shall from Time to Time become Owners and Proprietors of, or entitled to any Share or Shares therein, and of all the Acts, Proceedings, and Transactions of the said Derby Canal Company, and of the said Committees, by virtue and under the Authority of this Act; and that every Proprietor of the said intended Canal, Cut, Rail Ways, or Stone Roads, and Undertaking, shall and may, at all convenient Times, have Recourse to and peruse and inspect the same gratis, and may demand and have Copies thereof, or of any Part thereof, paying Four-pence for every One hundred Words so to be copied; and if any such Clerk or Clerks shall refuse to permit any of the said Proprietors to inspect or peruse any such Book, or refuse to make any such Copy in a reasonable Time, at the Rate aforesaid, he shall for every such Offence forfeit and pay the Sum of Five Pounds, for the Benefit of the Person or Persons to whom such Refusal shall be made; and whenever any such Treasurer or Clerk shall die, or be removed from or quit the Service of the said Derby Canal Company, it shall be lawful for the said Committee to appoint some other fit Person to be Treasurer or Clerk in the Place of him so dying, being removed, or quitting the said Service, until the then next General Assembly of the said Proprietors, when such Appointment shall be confirmed, or another Treasurer or Clerk shall be nominated or appointed in his Stead.

Rates to be collected.

LXXXV. And be it further enacted, That it shall and may be lawful to and for the said Derby Canal Company, from Time to Time, and at all Times for ever, to ask, demand, take, and receive, to and for their own Use and Benefit, for the Tonnage and Wharfage of all Iron, Iron Stone, Iron Ore, Lead Ore, Lime Stone, Timber, Coals, Coak, and other Goods, Wares, Merchandize, and Commodities whatsoever, which shall be navigated, carried on, or conveyed upon, through, or over the said Canal, Cut, and Rail Ways or Stone Roads, or any Part thereof respectively, such Rates, Tolls, and Duties, as shall be fixed by the said Derby Canal Company, at any General Assembly, not exceeding the respective Rates, Tolls, and Duties, hereinafter mentioned; (that is to say),

For every Ton of Lime, Lime Stone, and other Stone, Coal, and Coak, which shall be navigated upon that Part of the said intended Canal between the River Trent

Trent and the Trent and Merſey Canal, and not carried further upon the ſaid intended Canal, the Sum of Three-pence per Ton; and ſo in Proportion for every greater or leſs Quantity than a Ton:

For every Ton of Lime, Lime Stone, and other Stone, Coal, Coak, Goods, Wares, Merchandize, and all other Articles, Matters, and Things, which ſhall be navigated upon the ſaid intended Canal between the ſaid River Trent and the Town of Derby, or upon any Part of that Line of the ſaid Canal, (except ſuch Lime, Lime Stone, and other Stone, Coal and Coak, as ſhall only be navigated between the ſaid River Trent and the ſaid Trent and Merſey Canal), the Sum of Nine-pence; and ſo in Proportion for every greater or leſs Quantity than a Ton:

For every Ton of Lime and Lime Stone which ſhall be navigated, carried, or conveyed upon the ſaid intended Canal, between the Town of Derby and Little Eaton, and upon the ſaid Rail Ways or Stone Roads, upon any Part of that Line of the ſaid Canal, Rail Ways, or Stone Roads, the Sum of Four Pence; and ſo in Proportion for every greater or leſs Quantity than a Ton:

For every Ton of Bricks, Grit Stone, or Free Stone for Building, or any other Purpoſe, which ſhall be navigated, carried, or conveyed upon the ſaid intended Canal, between the Town of Derby and Little Eaton, and upon the ſaid Rail Ways or Stone Roads, or upon any Part of that Line of the ſaid Canal, Rail Ways, or Stone Roads, the Sum of Three-pence; and ſo in Proportion for every greater or leſs Quantity than a Ton:

For every Ton of Coal, Coak, Goods, Wares, Merchandize, and all other Articles, Matters, and Things (except Lime, Lime Stone, Bricks, Grit Stone, and Free Stone for Building, or any other Purpoſe), which ſhall be navigated, carried, or conveyed upon the ſaid intended Canal, between the Town of Derby and Little Eaton, and upon the ſaid Rail Ways or Stone Roads, or upon any Part of that Line of the ſaid Canal, Rail Ways, or Stone Roads, the Sum of One Shilling and Five-pence; and ſo in Proportion for every greater or leſs Quantity than a Ton:

For every Ton of Coal, Coak, Lime, Lime Stone, and other Stone, Goods, Wares, Merchandize, and all other Articles, Matters, and Things, which ſhall be navigated upon the ſaid intended Cut, between the Town of Derby and the Erewaſh Canal, or upon any Part thereof, the Sum of Ten-pence; and ſo in Proportion for every greater or leſs Quantity than a Ton.

LXXXVI. Provided always, and be it further enacted, That this Act shall not impower the said Derby Canal Company to ask, demand, take, or receive for any Goods, Wares, Merchandize, or Commodities whatsoever, which shall be brought from the River Derwent through the Feeder near Saint Michael's Weir aforesaid, and afterwards navigated upon the said intended Canal and Cut, or either of them, any further or greater Sum of Money than such Goods, Wares, Merchandize, or Commodities would have been charged with or liable to if only navigated upon the said Canal and Cut, or either of them, between the Town of Derby and the Trent and Mersey Canal, or between the said Town of Derby and the Erewash Canal. Limiting the Rates for Articles passing the Feeder, near *Saint Michael's Weir*, and carried on the intended Canal.

LXXXVII. Provided always, and be it further enacted, That no Boat, Barge, or other Vessel, laden with Hay, Straw, Corn in the Straw, or any Kind of Manure, shall pass through any Lock to be made by virtue of this Act, except only at such Times as the Water shall flow over the Waste Weir next above such Lock, without the Consent of the said Derby Canal Company, or their Committee for the Time being. Boats laden with Hay, &c. not to pass unless with Consent of the Company.

LXXXVIII. And be it further enacted, That it shall be lawful to and for the said Derby Canal Company, from Time to Time, to ask, demand, take, and receive, to and for their own Use, the several further Tolls following; (that is to say), Tolls on the Rail Ways.

For every Horse, Mare, Gelding, Mule, or Ass, (not carrying or drawing any Goods, Wares, or Merchandize, in respect whereof a Rate, Toll, or Duty is herein-before made payable), which shall or may go or travel upon the said Rail Ways or Stone Roads, and pass through or by any Stop Gate, or other Gate or Toll House to be erected upon or across the same, by the said Derby Canal Company, and before such Horse, Mare, Gelding, Mule, or Ass, shall be permitted to pass through or by the same, the Sum of One Penny.

And for all Cows, and Horned or Neat Cattle whatsoever, which shall or may go or be driven upon the said Rail Ways or Stone Roads, and shall pass through or by any such Stop Gate, or other Gate or Toll House as aforesaid, and before such Cows, or Horned or Neat Cattle, shall be permitted to pass through or by the same, the Sum of One Halfpenny each.

LXXXIX. And whereas, by making the said intended Cut from or near the Town of Derby to communicate with Reduction of Tonnage upon the *Erewash* Canal.

with the said Erewash Canal at or near Sandiacre, the Quantity of Coals, Merchandize, and other Articles, navigated upon the said Erewash Canal, will be greatly increased; and the said Erewash Canal Company have, in Consideration of the great Benefit which they will derive therefrom, agreed to reduce the Tonnage upon such Articles in Manner herein-after mentioned; be it therefore enacted, That, from and immediately after a Communication shall be made between the said intended Cut and the said Erewash Canal, the Company of Proprietors of the said Erewash Canal, or any Collector or Collectors, or other Person or Persons acting under their Authority, shall ask or demand, and be entitled to take or receive the Sum of Five-pence only for every Ton of Coal or Coak navigated upon any Part of the said Erewash Canal, and passing into and upon the said intended Cut; and the Sum of Three-pence only for every Ton of mercantile Goods passing upon the said Erewash Canal, between the intended Cut and the River Trent; and upon Lime, and all other Articles navigated upon the said Erewash Canal, and afterwards brought upon any Part of the said intended Cut from Sandiacre to Derby, One Half of the general Rates which they are entitled to ask, demand, and receive for the same, under and by virtue of an Act of Parliament, passed in the Seventeenth Year of the Reign of his present Majesty, for making the said Erewash Canal, notwithstanding the said Act, or any Thing contained therein to the contrary.

Regulations relative to the Rates on the *Erewash* Canal.

XC. Provided always, and be it further enacted, That if the said Derby Canal Company, or any other Company or Companies, Person or Persons, shall make, or cause, permit, or suffer to be made, any Canal, Cut, Rail Way or Gang Way, or any other Communication by Water between the Line of the said intended Cut from the Erewash Canal to Derby, to or from the intended Cut to the River Trent, or any other Navigation, without the Licence and Consent of the said Erewash Canal Company for that Purpose, then, and from thenceforth, the Clause herein-before contained for Reduction of the Tonnages upon the said Erewash Canal, shall be considered as void and of no Effect; and it shall and may be lawful to and for the said Erewash Canal Company, from thenceforth to demand, take and receive such and the same Rates or Tonnage upon Coal, Coak, Wares, and Merchandize, to be carried from any Part of their Navigation upon the said intended Cut, from thence to the Town of Derby, as they now are and would have been entitled to demand and receive in case this Act had not been obtained.

XCI. And

Reduction of the Tonnage upon the *Trent* in certain Cases.

XCI. And whereas the Right Honourable Henry Earl of Uxbridge, under and by virtue of Two several Acts of Parliament, the former of which was obtained in the Tenth and Eleventh Years of the Reign of His Majesty King William the Third, and the latter in the Twenty-third Year of the Reign of His present Majesty, is the Sole Proprietor of the Navigation of the River Trent, from a certain Place called Wilden Ferry, to the Town of Burton, in the County of Stafford, and is entitled to certain Rates and Tonnages in Gross upon Boats, Barges, and Vessels passing upon any Part of the said Navigation: And whereas, the said Henry Earl of Uxbridge has agreed to reduce the Rates and Tonnages upon the said Navigation in Manner herein-after mentioned; be it therefore further enacted, That it shall and may be lawful to and for the said Henry Earl of Uxbridge, his Heirs and Assigns, and the Proprietor or Proprietors for the Time being of the Navigation of the River Trent from Wilden Ferry to Burton aforesaid, to ask, demand, and receive for or on Account of any Boat, Barge, or Vessel laden with Coal, Coak, Lime, Wares, Merchandize, and other Articles, Matters and Things, which shall not have been carried upon the said River Trent Navigation for a greater Distance than Three Miles, and which shall be also carried upon some Part of the said intended Canal, from Swarkstone to Derby, on the North Side of the said Trent and Mersey Canal, One Half Part only of such Rates or Tonnages, as he or they are entitled to demand and receive under and by virtue of the said recited Acts of Parliament, or either of them.

Permission to navigate 5,000 Tons of Coals, for certain Purposes, exempt from Costs.

XCII. And be it further enacted, That the said Derby Canal Company shall and they are hereby required to permit and suffer such Quantity of Coal as may be necessary for the Purpose herein-after mentioned (not exceeding in any One Year Five thousand Tons) to be navigated and carried annually upon and along the said intended Canal, Cut, and Rail Ways, or Stone Roads, or any of them, to the Town of Derby, free and exempt from the Tonnage herein-before authorized to be taken upon Coals navigated and carried upon such Canal, Cut, and Rail Ways, or Stone Roads respectively, which Coal shall be sold, and impartially distributed, under the Direction of a Select Committee consisting of Three Members of the Corporation of Derby, to be appointed annually by the said Corporation, and of Three Proprietors of the said Navigation to be appointed annually by the Committee of the said Proprietors, or any Four of such Select Committee,

mittee, to and amongſt the poor Inhabitants of the Town of Derby, of ſuch Claſs and in ſuch Proportion as herein-after mentioned, and at ſuch particular Times as the ſaid Select Committee ſhall think expedient:

XCIII. Provided always, That the ſaid Select Committee ſhall not ſell or diſtribute any Part of ſuch Coal to or amongſt any Perſon or Perſons who ſhall be the Occupier or Occupiers of a Meſſuage or Dwelling Houſe aſſeſſed to the Poors Rates for more than Three Pounds per Annum; and that no Perſon or Perſons whomſoever ſhall receive or be permitted to purchaſe more than Three Tons of ſuch Coal in any One Year.

Recovery of Rates.

XCIV. And be it further enacted, That the Rates herein-before authorized to be demanded and taken, ſhall be paid to ſuch Perſon or Perſons, and at ſuch Place or Places, at or near the ſaid intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, and in ſuch Manner, and under ſuch Regulations, as the ſaid Derby Canal Company ſhall from Time to Time direct or appoint, and in caſe of Refuſal or Neglect of Payment of any ſuch Rates, or any Part thereof, on Demand, to ſuch Perſon or Perſons as aforeſaid, the ſaid Derby Canal Company may ſue for the ſame by Action of Debt or upon the Caſe, in any Court of Record at Weſtminſter, or the Perſon or Perſons to whom the ſaid Rates ought to be paid may, and he and they is and are hereby impowered to ſeize and diſtrain the Goods or other Things for or in reſpect whereof ſuch Rates ought to be paid, or any Part thereof, and the Boat or other Veſſel laden therewith, and detain the ſame until Payment thereof, and of all Arrears of the ſaid Rates which may be due from the Owner of ſuch Boat or Veſſel to the ſaid Derby Canal Company, together with reaſonable Charges for ſuch Seizure and Diſtreſs, and if ſuch Diſtreſs ſhall not be redeemed within Five Days after the taking thereof, the ſame may be appraiſed and ſold as the Law directs in Caſes of Diſtreſs for Rent.

Exemptions from Rates.

XCV. Provided always, and be it further enacted, That all Gravel and Sand to be uſed for the Purpoſe of making and repairing any publick Roads (Turnpike Roads only excepted) in any Townſhip, Village, or Hamlet through which the ſaid intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, ſhall be made, and alſo Dung, Soil, Marl, Aſhes of Coal or Turf, and all other Manure (except Lime) which ſhall be uſed for the Improvement only of the Lands and Grounds in any Pariſh, Townſhip, Hamlet, Village, or Place through which the ſaid intended Canal, Cut,

and Rail Ways or Stone Roads, or any of them, shall pass, and also all Puncheons, Clogs, or other Wood to be conveyed on the said intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, to be used under Ground in any of the Collieries in or near the Line of the said intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, shall not be charged with or liable to the Payment of any of the Rates herein-before authorized to be taken, so that the same do not pass through any Lock to be made on the said intended Canal and Cut, or either of them, but at such Times when the Water shall flow over the Waste Weir of such Lock; and also that such Person or Persons who shall own or be concerned or employed in carrying such Stones, Gravel, or Sand, for the making and repairing of such Roads, or such Dung, Soil, Marl, Ashes, or Manure for the Improvement of Land, or Puncheons, Clogs, or other Wood to be used under Ground as aforesaid, shall have free Liberty to make use of the Towing Paths, Wharfs, or Quays belonging to the said Derby Canal Company, such Person or Persons not suffering the same to lie upon such Wharfs or Quays longer than may be necessary for the loading, unloading, and conveying thereof from and to the several Places where they are to be put on Board and unloaded: Provided, that the Person or Persons claiming any such Exemption as aforesaid, and intending to pass through any Lock or Locks on the said intended Canal and Cut, shall give Notice to the nearest Collector of the said Rates, or Lock Keeper, of such his or their Intention, and shall specify the Lock or Locks through which he or they intend to pass, Three Hours at least before the passing through the same; and if any Person shall claim and take the Benefit of any of the said Exemptions, who shall not be entitled thereto, or shall use or dispose of any of the Articles for which any such Exemption shall have been allowed, in any other Manner than as before mentioned, he shall for every such Offence forfeit any Sum not exceeding Five Pounds.

Payment for Wharfage.

XCVI. And be it further enacted, That if any Coal, Iron Stone, Lime, Lime Stone, or other Stone, Lead, Timber, or other Merchandize, Goods, Articles, or Things whatsoever, which shall be so navigated, carried, or conveyed upon the said Canal, Cut, Rail Ways or Stone Roads, or any of them, shall remain upon any Wharf belonging to the said Derby Canal Company, or belonging to any other Person or Persons, and adjoining to the said intended Canal, Cut, and Rail Ways or

Stone Roads, or any of them, for the Space of One Month, then, and in such Case, the said Derby Canal Company, or such other Person or Persons, shall be entitled to receive such reasonable Allowance over and above the Rates herein-before authorized to be taken, as shall be agreed upon by the said Derby Canal Company, or their Agent or Agents, or such other Person or Persons, and the Owner or Owners of such Coal, Iron, Iron Stone, Lime, Lime Stone, or other Stone, Lead, Timber, or other Goods or Things, or in case of any Dispute concerning such Allowance, the same shall be ascertained and adjusted by the said Commissioners.

Power to alter the Rates.

XCVII. And be it further enacted, That it shall be lawful for the said Derby Canal Company, from Time to Time, at any General Assembly to be held for that Purpose, of which One Calendar Month's Notice shall be given in some Newspaper published or circulated in the Town or County of Derby, or in such other Manner as the said Derby Canal Company shall at any General Meeting direct or appoint, to lessen or reduce all or any of the said Rates hereby granted, and made payable to them as they shall think proper, and afterwards from Time to Time, at any General Assembly (of which such Notice shall be given as aforesaid), to advance and raise all or any of the said Rates so lessened, to any Sum or Sums of Money, not exceeding the said Rates herein-before granted, but no Reduction of the said Rates shall be made without the Consent of the Proprietors possessed of at least One half of the Shares in the said Navigation and Undertaking, except only as herein-after mentioned.

Profits not to exceed 8 *l. per Centum per Annum.*

XCVIII. Provided always, and be it further enacted, That the clear Profits to be received by the said Derby Canal Company, from the said Canal, Cut, and Rail Ways or Stone Roads, shall never exceed the Sum of Eight Pounds per Centum per Annum, upon all such Money as shall be actually laid out and expended in, or preparatory to the making and completing the said Canal, Cut, and Rail Ways or Stone Roads, and the several Works relating thereto, or any Part thereof, and in defraying the Charges and Expences of obtaining and passing this Act; and in order to ascertain the Amount of the clear Profits of the said Undertaking, the said Derby Canal Company shall, and they are hereby required, to cause to be entered in a Book a true and particular Account of the Charges and Expences attending the obtaining and passing of this Act, and of all Money already laid out, and which shall from Time to Time be laid out and expended

pended by the said Derby Canal Company, in or any-ways relating to the making and completing the said Canal, Cut, and Rail Ways or Stone Roads, and of all Charges and Expences which shall from Time to Time be incurred on Account of the said Canal, Cut, and Rail Ways or Stone Roads, and the several Works thereunto belonging, previous to and until the same shall be made and completed, and of the said Wharfs and Buildings, Warehouses, and Engines thereon; and the said Derby Canal Company, shall and are hereby also required, from the last Tuesday in April next after the Expiration of Two Years from the Time of completing the said Canal, Cut, and Rail Ways or Stone Roads, or any Part thereof, to cause a true, exact, and particular Account to be kept, and annually made up and ballanced to the last Tuesday in April, of the Rates collected or received by them or for their Use, by virtue of this Act, and of the Charges and Expences attending the supporting, maintaining, and using the said Canal, Cut, and Rail Ways or Stone Roads, and the several Works thereunto belonging; and if the clear Profits of the said Canal, Cut, and Rail Ways or Stone Roads, shall at any Time amount to a larger Sum of Money than shall be sufficient to make a Distribution amongst the said Proprietors of Eight Pounds per Centum per Annum upon all such Money as shall have been laid out and expended as aforesaid, such Interest to be computed and take Place from the Time when the said intended Canal, Cut, and Rail Ways or Stone Roads, shall be made and completed, then, and in such Case, the Excess or Surplus which shall be more than sufficient for the Purposes aforesaid shall from Time to Time be placed in the Hands of such Person or Persons, or on such Government or other Security or Securities, in the Name or Names of the Treasurer or Treasurers to the said Derby Canal Company, to answer any Deficiencies that may happen in the next or any succeeding Year or Years, as the said Derby Canal Company shall for that Purpose order or direct, until such Excess or Surplus shall amount to the Sum of Four thousand Pounds, and the Interest or Dividends of such Sum or Sums so to be invested shall be paid and applied in like Manner as the Rates to be received by or for the Use of the said Derby Canal Company by virtue of this Act are to be paid or applied, and the Total Amount of the said first-mentioned Account of the Charges and Expences attending the obtaining and passing of this Act, and of or relating to the making and completing the said Canal, Cut, and Rail Ways or Stone

Stone Roads, and other Works, and on Account of the said Wharfs, and the Buildings, Warehouses, and Engines thereon, and also the Total Amount of every such Annual Account as aforesaid, together with an Account of the Dividends and Interest to be from Time to Time received on all such Money so to be placed out as aforesaid, shall be laid before the Justices of the Peace, at their Michaelmas Quarter Session to be holden for the County of Derby next after the making up of every such Annual Account, and if by any such Annual Accounts it shall appear to the Justices at such Session that the clear Profits of such Canal, Cut, and Rail Ways or Stone Roads, after such Sum shall have been so vested, including the said Dividends and Interests, shall, upon the Average of Three Years then next preceding, have exceeded the Rate of Eight Pounds per Centum upon all such Monies as shall appear by the first-mentioned Account to have been laid out and expended as aforesaid, then, and in every such Case, the said Justices shall, and they are hereby authorized, by an Order to be made at such Session, or at any Adjournment thereof, to make such Reduction in the said Rates, for One Year then next, as in the Judgement of the said Justices will be sufficient, so that the clear Profits of the said Canal, Cut, and Rail Ways or Stone Roads, for that Year, may be as near Eight Pounds per Centum upon the Money which shall by the said first mentioned Account appear to have been laid out and expended as aforesaid as may be, the Rates on such Goods, Wares, Merchandize, and Commodities navigated on the said intended Canal between Derby and Swarkstone as are herein-after charged with the same Rates and Duties to be paid to the said Trent and Mersey Canal Company, as if they had been navigated on the said Trent and Mersey Canal from Swarkstone to Shardlow, or from Shardlow to Swarkstone, to be first reduced equal to the said last mentioned Rates and Duties, or such proportionate Part thereof as shall be taken off the General Rates as aforesaid; and it shall not be lawful for the said Derby Canal Company, during such Year, to demand or take any greater or higher Rates than such as shall have been ascertained at such Session, any Thing in this Act to the contrary thereof notwithstanding; and for the better ascertaining the Truth of the said Accounts, it shall be lawful for the Justices of the Peace at any such General Quarter Sessions as aforesaid, when and as often as they shall think fit, to authorize any Person to examine the Books in which the said Accounts shall be entered and

kept, and to take Copies thereof, or such Extracts therefrom, as they shall think proper; and every such Person shall be permitted, at all seasonable Times, to examine such Books, and to take such Copies or Extracts as aforesaid, without paying any Thing for the same, and the Justices at any such Session may examine any Witnesses upon Oath touching the Truth of the said Account.

Masters of Boats to give an Account in Writing of their Lading.

XCIX. And, for the better ascertaining the said Rates, be it further enacted, That the Master or Person having the Care of every Boat, Barge, or other Vessel, Waggon or other Carriage, navigating or passing upon the said intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, shall give an exact and true Account in Writing, signed by him, to any Collector of the said Rates demanding the same, at the Place where he shall attend for that Purpose, of the Quantities of Goods or other Things which shall be in and upon such Boat, Barge, or other Vessel, Waggon or other Carriage, and from whence brought, and where the same are intended to be landed, and also of the Quantities, Qualities, and Weight of such Goods or other Things as shall have been discharged out of such Boat, Barge, or other Vessel, Waggon or other Carriage, and where the same shall have been discharged before it shall have arrived at the Place where such Account is to be given, and if the Goods or other Things contained in such Boat, Barge, or other Vessel, Waggon, or other Carriage, shall be liable to the Payment of different Rates, then such Master or Person shall specify the Quantities liable to the Payment of each Rate; and in case any such Person shall neglect or refuse to give such Account, or to produce his Bill of Lading to any such Collector demanding the same, or shall give a false Account, or shall deliver any Part of the Lading at any other Place than what shall be mentioned in such Account, he shall forfeit and pay the Sum of Forty Shillings for every Ton of Goods, and other Things (and so in Proportion for any less Quantity than a Ton) which shall be in such Boat, Barge, or other Vessel, Waggon or other Carriage, of which such Account shall be so refused to be given, or of which such false Account shall be given, or which shall be fraudulently delivered out as aforesaid, as the Case shall happen to be, over and above the respective Rates directed to be paid for the same by virtue hereof.

Quantity of Tonnage, &c. ascertained.

C. And, for the further ascertaining the Tonnage of Stone, Timber, or other Goods, to be charged with the

Payment of such Rates as aforesaid, be it further enacted, That Sixteen Cubic Feet of Stone, Ten Yards square of Flag Stone from One Inch and an Half to Three Inches thick, and Ten Yards of Lineal Curb Stone from Eleven to Thirteen Inches wide and from Five to Seven Inches thick, Fifty Cubic Feet of round or Forty Cubic Feet square of Oak, Ash, Elm, or Beech Timber, and Fifty Feet of Fir or Deal Balk, Poplar, or other Timber or Wood, not cut into Scantlings, shall, for the Purpose of this Act, be deemed, rated, or estimated, as or for One Ton Weight; and that Nine Score Pounds Weight Avoirdupoise of Lime Stone, intended to be burnt into Lime, shall, for the Purposes of this Act, be deemed or estimated as and for One Hundred Weight; and that Six Score Pounds Weight Avoirdupoise of new wrought Stone, and Coals, and all other Goods and Things, shall, for the Purpose of this Act, be deemed, rated, or estimated as and for One Hundred Weight, any Usage of rating or estimating the same to the contrary thereof notwithstanding.

If any Difference concerning the Weight, Collectors may weigh Vessels.

CI. And be it further enacted, That if any Difference shall arise between any Collector of the said Rates and the Master or Person having Charge of any Boat Barge, or other Vessel, Waggon or other Carriage, or the Owner of any Goods or other Things, concerning the Weight or Quantity of any Wares or other Things, it shall be lawful for any such Collector to stop and detain any such Boat, Barge, or other Vessel, Waggon, or other Carriage, and to weigh, measure, or gauge, or cause to be weighed, measured, or gauged, such Boat, Barge, or other Vessel, Waggon or other Carriage, and all such Goods and other Things as shall be therein contained; and in case the same shall, upon such weighing, measuring, or gauging, appear to be of greater Weight or Quantity than what is set forth and contained in the Account given thereof as aforesaid, then the Master, Owner, or Person giving in such Account, shall pay the Costs and Charges of such weighing, measuring, and gauging, all which said Costs and Charges, upon Refusal of Payment thereof upon Demand, shall and may be recovered and levied by such Ways and Means, and in such Manner, as the said Rates are hereby appointed to be recovered and levied; but if such Goods or other Things shall appear to be of the same, or less Weight or Quantity than the same shall by such Account appear to be of, then the said Collector shall pay the Costs and Charges of such weighing, measuring, and gauging, and

shall also pay to such Master or Person, or to the Owner or Owners of such Goods or other Things, such Damage as shall appear to any Justice of the Peace for the County of Derby, on the Oath of any credible Witness (which Oath the said Justice is hereby impowered to administer), to have arisen from such Detention, and in Default of immediate Payment thereof by the Collector, the same shall be recovered in like Manner as any Penalty is herein-after mentioned or directed to be recovered.

Navigation to be free on Payment of Rates.

CII. And be it further enacted, That all Persons whomsoever shall have free Liberty, with Horses, Cattle, and Carriages, to use the private Roads and Ways belonging to the said Derby Canal Company (except the Towing Paths), and with Boats, Barges, and other Vessels, Waggons, or other Carriages, capable of passing through the Locks, or of being drawn or used upon the said Rail Ways or Stone Roads to be made by virtue of this Act, to use the said intended Canal, Cut, and Rail Ways or Stone Roads, for the Purpose of conveying Coals, and all other Goods and Things whatsoever, and to use the said Wharfs or Quays for loading and unloading Coals, and other Goods and Things, and the said Towing Paths for haling and drawing such Boats, Barges, and other Vessels, upon Payment of such Rates as shall be demanded by the Derby Canal Company, not exceeding the respective Sums herein-before mentioned, and subject always to the Rules, Bye Laws, and Regulations, which shall be from Time to Time made by the said Derby Canal Company, by virtue of the Powers herein granted.

Company impowered to lease the Rates.

CIII. And be it further enacted, That it shall be lawful for the said Derby Canal Company, and they are hereby authorized and impowered, at any of their General Assemblies, by Writing under their Common Seal, at any Time or Times to let to farm the Rates hereby granted, or any Part or Parts thereof, upon the Whole or any Part or Parts of the said Canal, Cut, and Rail Ways or Stone Roads, unto any Person or Persons, for any Time or Term they shall think proper, not exceeding Twenty-one Years from the Commencement of any Lease, and every such Lease shall be valid and effectual, and the Lessee or Lessees thereof, and also such Person or Persons as such Lessee or Lessees shall appoint to collect and receive the Rates so let, shall, during the Continuance of every such Lease, be deemed Collectors of the Rates so let, and shall have the same Power and Authority for collecting the same as if they had been appointed for that Purpose

Purpose by the said Derby Canal Company, provided publick Notice of the Intention to let the said Rates, or any Part thereof, be given by Writing under the Hands of the said Committee, or any Five or more of them, by Advertisements published and continued in such Newspaper as aforesaid, at least Twenty Days prior to any such General Assembly at which the said Rates, or any Part thereof, are proposed to be let as aforesaid.

To prevent Lock Keepers, &c. giving any Preference.

CIV. And be it further enacted, That if any Lock Keeper, Wharfinger, or other Servant belonging to the said Derby Canal Company, shall give any Preference or shew Partiality to any Boat, Barge, or other Vessel, in passing through any Lock or Locks upon the said intended Canal and Cut, or in passing over or along the said Rail Ways or Stone Roads, or any of them, or in loading or unloading any Goods or other Things at any of the Wharfs, Warehouses, Weigh Beams, Cranes, and other Machines, belonging to the said Derby Canal Company, every Person so offending shall forfeit and pay the Sum of Forty Shillings to the Informer.

Masters to put their Names on the Outside of their Boats.

CV. And, for the better Regulation of Masters of Boats, Barges, and other Vessels, Boatmen and others employed by or under them, and for the more easy Detection of any Thing by them done contrary to the Directions of this Act, be it further enacted, That every Owner, Master, or Person having the Rule or Conduct of any Boat, Barge, or other Vessel, Waggon or other Carriage, passing upon the said intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, shall cause his or her Name and Place of Abode, and the Number of his or her Boat, Barge, or other Vessel, Waggon or other Carriage, to be entered with the Clerk or Clerks to the said Derby Canal Company; and shall also cause such Name and Number to be painted in large White Capital Letters and Figures on a Black Ground, on the Outside of every such Waggon or Carriage, and the Head or Stern of every such Boat, Barge, or other Vessel, higher than the Place to which the same shall sink into the Water when full laden; and also shall and is hereby required to fix on each Side thereof respectively correct Inderes of Copper, Lead, or some other Metal, of such graduated Dimensions and of such convenient Height, and under such Regulations, as the said Derby Canal Company shall from Time to Time direct, so that the true Weight of the Lading on Board may at all Times be thereby ascertained and shewn, and shall permit and suffer every such Boat, Barge, or other Vessel to be gauged or measured, at the Expence of the said Derby Canal Company whenever it

Weight of the Loading of the Vessels to be marked;

and Vessels to be gauged.

shall

shall be required by them, or any Person or Persons appointed for that Purpose, provided that no such Vessel shall be gauged or measured more than Four Times in any One Year; and every Owner, Master, or other Person having the Rule or Conduct of any Boat, Barge, or other Vessel, Waggon, or other Carriage, who shall navigate or drive the same upon the said intended Canal, Cut, and Rail Ways, or Stone Roads, or any of them, without having such Name, Figures, and Index thereon, as are herein-before directed, or shall alter, erase, deface or destroy the same, or any Part thereof, or shall fix any false Name, Figures, or Index, or who shall refuse to permit and suffer the same to be gauged and measured, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, nor less than Forty Shillings.

Masters or Owners of Boats answerable for Damages.

CVI. And be it further enacted, That the Master or Owner of any Boat, Barge, or other Vessel, navigating upon the said Canal and Cut, and also of any Dray, Waggon, Cart, or other Carriage, used or employed upon the said Rail Ways or Stone Roads, or any of them, shall be and is hereby answerable for any Damage, Spoil, or Mischief that shall be done by his Boat, Barge, or other Vessel, Waggon, or Carriage, or any of the Boatmen, Watermen, or others belonging to or employed in or about the same, unto any of the Bridges, Weirs, Locks, Banks, Dams, Engines, or other Works, in, upon, or belonging to the said intended Canal, Cut, and Rail Ways or Stone Roads, or any of them, or any of the Fences, Gates, Stiles, Trenches, Aqueducts, Sluices, and Passages to be made as aforesaid, or by loading or unloading any Boat, Barge, Dray, Waggon, Cart, or other Vessel or Carriage, and for any Trespass or Damage that shall or may be done to the Owners or Occupiers of any Buildings, Erections, Land, or Tenements adjoining or lying near to the same, or any of them, by leaving open Gates or otherwise, or any other Trespass whatsoever, the Amount or Value of such Damage, Spoil, Mischief, or Trespass, to be recovered in like Manner as any Penalty is herein-after mentioned or directed to be recovered; and in case the Owners of any such Boat, Barge, Dray, Waggon, Cart, or other Vessel or Carriage as aforesaid, shall be compelled to pay any Penalty, or to make any Satisfaction for any Damage or Trespass by reason of any wilful Act or Default done or committed by his Servant or Servants, every such Servant shall be liable to repay such Penalty, or the Money paid for any such Damage or Trespass to such Owner, and in case of Nonpayment thereof upon Demand, the same shall be

recovered by such Owner in like Manner as any Penalty is herein authorized or directed to be recovered.

Land Owners may keep Pleasure Boats.

CVII. And be it further enacted, That it shall be lawful for the Owners and Occupiers of any Lands adjoining to the said Canal and Cut, or either of them, to use any Pleasure Boat or Boats upon the said intended Canal and Cut, or either of them, (not passing through any Lock, unless they shall first pay Tonnage equal to a Boat or Vessel carrying Ten Tons, or obtain the Consent of the said Derby Canal Company), without any Interruption from the said Derby Canal Company, and without paying any Rate for the same, so as the same be not made Use of for carrying any Goods or other Things, and so as the same shall not obstruct or prejudice the Navigation of the said intended Canal and Cut, or either of them, or the Towing Paths on the Sides thereof.

Regulations for Vessels passing the Locks.

CVIII. Provided always, and be it further enacted, That no Boatman, or other Person navigating any Boat, Barge, or other Vessel upon the said intended Canal and Cut, or either of them, and passing with the same through any Lock to be made by virtue of this Act, shall suffer the Water to remain in such Lock longer than is necessary for such Boat, Barge, or other Vessel to pass through such Lock; and also that every such Boatman or other Person as aforesaid, in going down the said Canal and Cut, or either of them, shall shut the lower Gates of such Lock, and the Sluices thereto belonging, before he shall draw the Cloughs of the upper Gates thereof; and after he shall have brought such Boat, Barge, or other Vessel into the said Lock, shall shut the upper Gates, and the Sluices thereto belonging, before he shall draw the Cloughs of the lower Gates thereof; and in going up the said intended Canal and Cut, or either of them, shall, so soon as he shall have passed with such Boat, Barge, or other Vessel out of the said Lock, shut the upper Gates and Sluices of the said Lock, and afterwards draw the Cloughs of the lower Gates, unless there shall be then a Boat, Barge, or other Vessel in Sight coming down the said intended Canal and Cut, or either of them, in which Case the lower Gates and Sluices of the said Lock shall be left shut, and the upper Gates shall be left open; and at all Times the Boat, Barge, or other Vessel going up the same, if within Sight, and at a Distance not above Three hundred Yards below the Lock, shall pass through such Lock before the Boat, Barge, or other Vessel coming down, and then the Vessel next above shall come down; and if there shall be more Boats, Barges, or other Vessels than One below and One above any Lock at

at the same Time, within the Distance aforesaid, at which Distance a Post or Mark shall be set up and made for ascertaining the same, such Boats, Barges, or other Vessels shall go up and come down in such Locks by Turns as aforesaid, until all the said Boats, Barges, or other Vessels going up and coming down shall have passed, by which Means One Lock full of Water may serve Two Boats, Barges, or other Vessels; and every Person acting contrary to these Directions in passing any such Lock shall for every such Offence forfeit a Sum not exceeding Twenty Shillings.

Committee to regulate the Navigation.

CIX. And be it further enacted, That all Boats, Barges, and other Vessels passing upon the said intended Canal or Cut, shall, upon meeting any other Boat, Barge, or other Vessel, stop at, or go back to and lie in some Place to be provided for that Purpose as aforesaid, in such Manner as the said Derby Canal Company, or the said Committee, shall from Time to Time direct and appoint; and if any Boat, Barge, or other Vessel, shall be placed or suffered to remain in any Part of the said intended Canal and Cut, so as to obstruct the Navigation thereof, and the Person having the Care of such Boat, Barge, or other Vessel, shall not immediately, upon Request made, remove the same, he shall, for every such Offence, forfeit any Sum not exceeding Five Shillings for every Hour such Obstruction shall continue after the making of such Request; and it shall be lawful for any Agent or Officer to the said Derby Canal Company to cause any such Boat, Barge, or other Vessel, to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction, and to seize and distrain such Boat, Barge, or other Vessel, until the Charges occasioned by such Removal are paid; and if any Person shall float any Timber upon the said intended Canal and Cut, or either of them, or shall suffer the Loading of any Boat, Barge, or other Vessel navigating in or upon the said intended Canal and Cut, or either of them, to lie over the Side thereof, so as to obstruct the Passage of any other Boat, Barge, or other Vessel, and shall not, immediately upon Notice given to him for that Purpose, remove such Obstruction; or if any Person shall throw any Ballast, Gravel, Stones, or Rubbish, into any Part of the said intended Canal and Cut, or any Trenches or Watercourses to be made by virtue of this Act; or if any Person shall wantonly, carelessly, or negligently open, or cause to be opened, any Lock Gate, or any Paddle, Valve, or Clough, belonging to any Lock to be erected on the said intended Canal and Cut, or either of them, or suffer any Boat, Barge, or other Vessel, to strike or run

Penalty on Persons overloading or obstructing the Navigation, &c.

and on opening Locks.

run upon any of the Bridges or Locks thereof, or shall wilfully flush or draw off the Water from any Part of the said intended Canal or Cut, or shall leave any of the Valves or Cloughs open and running, after any Boat, Barge, or other Vessel shall have passed any such Lock, every Person so offending shall forfeit and pay, for every such Offence, any Sum not exceeding Five Pounds; and if any Person shall wilfully and maliciously, and to the Prejudice of the said Undertaking, break, throw down, damage, or destroy any Banks or other Works to be erected and made by virtue of this Act, every Person so offending shall be subject and liable to the like Pains and Penalties as in Cases of Felony, and the Court by and before whom such Person shall be tried shall have Power and Authority to cause such Person to be punished, in like Manner as Felons are directed to be punished by the Laws and Statutes of this Realm, or in Mitigation of such Punishment, such Court may, if they think fit, award such Sentence as the Law directs in Cases of Petit Larceny.

Punishing Persons wilfully destroying the Works.

Canal not to be under the Power of Commissioners of Sewers.

CX. Provided always, and be it further enacted, That the said intended Canal and Cut, or any Works to be made by virtue of this Act, shall not be subject to the Controul, Direction, Survey, or Order of any Commissioners of Sewers, any Law or Statute to the contrary notwithstanding.

Rights to Fishery reserved.

CXI. And be it further enacted, That the Lord and Lords, Lady and Ladies of all and every Manor and Manors through which the said Canal and Cut, or either of them, shall be made, shall have and be entitled to the Right of Fishery of and in so much of the said Canal and Cut, or either of them, and other Works thereto belonging, as shall be made over, under, or through the Common or Waste Lands within his, her, or their Manors, respectively, and as shall be made over or through any other Lands or Grounds, in the Pits, Ponds, or Waters whereof such Lord or Lords, Lady or Ladies now have or hath, or are or is entitled to the Right of Fishery; and that the Owner or Owners of all other Lands or Grounds through which the said Canal and Cut, or either of them, shall be made, shall also have and be entitled to the like Right of Fishery of and in so much of the said Canal and Cut, or either of them, or other Works as shall be made in, over, under, or through his, her, or their Lands or Grounds respectively, so as that in the Use and Exercise of the said Right of Fishery, the said navigable Canal and Cut, or either of them, and other Works hereby authorized to be made, shall not be prejudiced or obstructed, or any Water drained or exhausted from or out of the same,

same, and so as the said Derby Canal Company, or their Agents, Servants, or Workmen, or any of them, shall not be liable to any Penalty, Action, or Prosecution for the taking or destroying of any Fish in the said Canal and Cut, or either of them, which shall be taken, killed, or destroyed, through or by means of the letting off the Water out of them respectively, on Account of any Works or Repairs to be done in and about the same; and it shall be lawful for the Lord or Lords, Lady or Ladies, of such Manor or Manors, and for the Owner or Owners of such Lands or Grounds (being qualified by Law so to do) to take and kill Game upon so much of the said Canal and Cut, or either of them, and other Works, as shall be made through their respective Lands or Grounds as aforesaid, any Thing herein contained to the contrary notwithstanding.

Rates to be taken by the *Trent* and *Mersey* Company, in certain Cases.

CXII. And be it further enacted, That it shall and may be lawful to and for the said Trent and Mersey Canal Company, and they are hereby authorized and impowered to ask, demand, take, and receive, to and for their own Use and Benefit, such Sum or Sums of Money as they shall think fit, not exceeding the Sum of One Shilling for every Ton of Goods, Wares, Merchandizes, and Commodities which shall turn, pass, or be carried into or out of the said Trent and Mersey Canal, into or from the said Part of the said intended Canal between the said Trent and Mersey Canal, and the River Trent at Swarkstone aforesaid, or any Part thereof, (except Coal, Coak, Lime, and Lime Stone, and except unwrought Stone brought along the said intended Canal from Little Eaton, or any of the Villages on the Line of the Canal between Derby and Little Eaton, or gotten in any of the Parishes of Melbourne, Stanton by Bridge, and Castle Donington, in the Counties of Derby and Leicester, and except such Goods and Merchandizes as shall be brought or carried for the necessary Uses or Occasions, and to be really used or consumed by any of the Persons residing between the Trent and Mersey Canal and the River Trent, within the Parish of Swarkstone aforesaid); and the said Trent and Mersey Canal Company are also hereby authorized and impowered to ask, demand, take, and receive, to and for their own Use and Benefit, such Sum or Sums of Money for all Goods, Wares, Merchandize, and Commodities whatsoever, which shall be navigated, carried, or conveyed across the said Trent and Mersey Canal, as they are impowered to ask, demand, take, and receive for Goods, Wares, Merchandize, and Commodities navigated, carried, or conveyed for the Distance of One

Wise upon the said Trent and Mersey Canal; and also to ask, demand, take, and receive, to and for their own Use and Benefit, for all Goods, Wares, Merchandize, and Commodities whatsoever, except Bricks, manufactured in any of the Parishes or Liberties of Barrow, Twyford, Stenson, Findern, and Willington, in the said County of Derby, and not passing through any Lock upon the said Trent and Mersey Canal which shall be navigated, carried, or conveyed from the Westward of the said Liberty of Swarkstone, along the said Trent and Mersey Canal, and along the said intended Canal to Derby, or from Derby along the said intended Canal to the said Trent and Mersey Canal at Swarkstone, and from thence Westward along the said Trent and Mersey Canal, such Sum and Sums of Money as the said Trent and Mersey Canal Company would have been entitled to if such Goods, Wares, Merchandizes, and other Commodities, had been navigated, carried, or conveyed on the said Trent and Mersey Canal from Swarkstone to Shardlow, or from Shardlow to Swarkstone aforesaid; which said Rates and Duties shall be recoverable by the said Trent and Mersey Canal Company, by such Ways and Means as any other Rates or Duties, payable to the said Trent and Mersey Canal Company, by any Statute now in Force can or may be recovered.

Company to make a Canal from the *Trent* and *Mersey* Canal to the River *Trent*, if desired.

CXIII. And be it further enacted, That if a Canal or Rail Way shall at any Time hereafter be made from the Lime Works at Breedon, in the County of Leicester, to the River Trent, near Weston Cliff, in the County of Derby, and the Proprietors of those Lime Works shall desire a Canal to be made out of the said Trent and Mersey Canal to the said River Trent, near Weston Cliff aforesaid, and the said Trent and Mersey Canal Company, and the Owners of the Lands through which it shall pass, shall consent thereto, that then, and in such Case, it shall and may be lawful to and for the said Derby Canal Company, and they are hereby required to make, or cause to be made, a Canal from the said Trent and Mersey Canal to the said River Trent, near Weston Cliff, subject to such and the like Restrictions and Powers for taking and demanding Tonnage for Goods, Wares, Merchandizes, and other Commodities passing thereon, and for the Preservation of the Water of the said Trent and Mersey Canal, as are hereby given respecting the said intended Canal from the said Trent and Mersey Canal at Swarkstone to the said River Trent.

Compensation to be made to the Trustees of the *Mans-*

CXIV. And whereas certain Acts of Parliament were made in the Fourth and Twenty-fifth Years of the Reign of His present Majesty, for repairing and widening the

Road from Derby to Mansfield in the County of Nottingham, on the Credit of which Acts the Sum of Six thousand four hundred Pounds has been borrowed, and still remains due: And whereas the making of the said intended Canal, Cut, and Rail Ways or Stone Roads, may diminish the Annual Amount of the Tolls collected on the said Roads: And whereas the said Derby Canal Company are willing to make up such Diminution that may happen in the Amount of the said Tolls, as hereinafter mentioned, by reason of making the said intended Canal, Cut, and Rail Ways or Stone Roads; be it therefore enacted, That in each and every Year, (after that Part of the said Canal shall be made navigable, which extends from the Town of Derby to Little Eaton, and the said Rail Ways or Stone Roads shall be completed), when the Tolls collected upon the said Road directed to be repaired and widened by the said Acts of Parliament shall produce (being fairly let by publick Auction) a less Sum than Three hundred and forty Pounds per Annum, then, and in such Case, the said Derby Canal Company shall, out of the Rates to be received by them as aforesaid, pay to the Treasurer or Treasurers of the said Road such Sum or Sums of Money as will make up the Deficiency, so that the Amount of such Tolls may be equal to the said Sum of Three hundred and forty Pounds, and so from Time to Time, as often as the Case may happen; which said Sum or Sums of Money, if not paid within Thirty Days after the last Day of the Year in which the same shall become due, shall and may be recovered from the said Derby Canal Company by Action of Debt or on the Case, in any of His Majesty's Courts of Record at Westminster, in the Name or Names of the Treasurer or Treasurers of the said Road for the Time being, and such Sum or Sums of Money, when paid or recovered as aforesaid, shall be applied by the Trustees for the said Road in such Manner as the Tolls collected in pursuance of the said recited Act are thereby directed to be applied.

*field* Road for any Diminution of the Tolls below 4*l. per Cent.*

CXV. And whereas it is apprehended that the Profits of the Navigation of the River Derwent may be diminished in consequence of making the said intended Canal and Cut, and the said Derby Canal Company are willing to purchase the said Navigation at the Price of Three thousand six hundred and ninety-six Pounds, in case the Proprietors thereof shall be desirous of selling the same; be it therefore further enacted, That in case the Proprietors of the River Derwent Navigation shall, by any Writing to be delivered to the said Derby Canal Company,

Purchase of the River *Derwent* Navigation.

pany, at their First or Second General Assembly, to be holden in pursuance of this Act, signify their Desire that the said Derby Canal Company shall become Purchasers of the said Navigation, and shall at any Time, not less than Three nor more than Six Months then next, tender to any Committee of Proprietors of the said Derby Canal, to be appointed by virtue of this Act, a Conveyance to the said Derby Canal Company of the said River Derwent Navigation, and of all their Estate, Right, and Interest in and to the said Navigation, and of the Locks, Bridges, Wharfs, Buildings, and other Works, upon, in, over, or belonging thereto, and of all Dues, Tolls, and Tonnages which the said Proprietors of the River Derwent Navigation are entitled to, then the said Committee shall thereupon accept such Conveyance for and on Behalf of the said Derby Canal Company, and shall pay the said Sum of Three thousand six hundred and ninety-six Pounds to the Proprietors of the said River Derwent Navigation, or to such Person or Persons as they shall, by Writing, appoint to receive the same, (whose Receipt shall be a sufficient Discharge for such Money), and in Default of Payment thereof, the same shall and may be recovered from the said Derby Canal Company by Action at Law in any of His Majesty's Courts of Record at Westminster; and that from and after such Payment as aforesaid the said Derby Canal Company shall and may collect and receive, to and for their own Use, all Tolls, Dues, Duties, and Tonnages usually, or by any Act or Acts of Parliament authorized to be taken upon, or in respect of the said Navigation, and have, use, and exercise all such Powers, Rights, Liberties, and Privileges as the said Proprietors of the said River Derwent Navigation shall have been entitled to immediately before the Payment of such Purchase Money, or the making and executing of such Conveyance, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the said Proprietors, or any other Person or Persons acting under them, could or might have used or exercised; and that the Owners of Mills and Works upon the said River Derwent, below Little Eaton aforesaid, shall have Power to scour and cleanse the said River, in such Manner as the said Proprietors now have a Right to do, in order to remove any Obstructions that may arise on the said River, and injure the said Mills and Works.

Recovery of Fines and Forfeitures.

CXVI. And be it further enacted, That all Fines, Penalties, and Forfeitures inflicted by this Act, or which shall be inflicted by any Rule, Order, or Bye Law to be made

made in pursuance hereof, (the Manner of levying and recovering of which is not herein particularly directed), shall be levied and recovered by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal of any Justice of the Peace for the County or Place within which the Offence shall happen or be committed, or the Offender shall be or reside, and every such Justice is hereby authorized to hear and examine Witnesses upon Oath, and determine the same; and all such respective Forfeitures and Penalties (the Application whereof is not herein-before directed) shall be paid into the Hands of the Treasurer to the said Derby Canal Company, and shall be applied and disposed of for the Use of the said Undertaking.

Application of Money.

CXVII. And, for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That every Justice of the Peace before whom any Person shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up in any Form to the Effect following; (videlicet),

Form of Conviction.

County of *Derby*, (to wit.) } BE it remembered, That on the Day of in the Year of our Lord *A. B.* is convicted before me *C. D.* One of His Majesty's Justices of the Peace for the said County [*Specifying the Offence, and the Time and Place when and where the same was committed*]. Given under my Hand and Seal, the Day and Year aforesaid.

Proceedings not to be quashed, nor Distress unlawful, for Want of Form.

CXVIII. And be it further enacted, That no Proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for Want of Form, or removed by Certiorari, or any other Writ or Process, into any of His Majesty's Courts of Record at Westminster, or elsewhere; and that where any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on Account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers ab initio, on Account of any Irregularity which shall be afterwards committed by the Party or Parties distraining; but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damages in an Action upon the Case.



CXIX. Pro-

Appeal to the Quarter Sessions.

CXIX. Provided always, and be it further enacted, That any Person or Persons thinking himself or themselves aggrieved by any Order or Orders of the said Derby Canal Company, or by the Order or Determination of any Justice of the Peace, in pursuance of this Act, may, within Six Calendar Months after such Order, Judgement, or Determination shall be made or given, complain to the Justices of the Peace at any General Quarter Session to be held in and for the County of Derby, or the Borough of Derby (where the Cause of Appeal shall arise), who shall in a summary Way either hear and determine such Complaint at such Session, or, if they think proper, may adjourn the hearing thereof to their next General Quarter Session of the Peace, and if they see Cause may mitigate any Forfeiture or Fine, and may order any Money to be relieved which shall have been levied in pursuance of such Rule, Bye Law, Order, or Determination, and may also award such further Satisfaction to be made to the Party injured as they shall judge reasonable.

Limitation of Actions.

CXX. And be it further enacted, That if any Action or Suit shall be brought or commenced against any Person or Persons for any Thing done in pursuance or Execution of this Act, every such Action or Suit shall be brought or commenced within Six Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damages, then within Six Calendar Months next after the doing or committing such Damages shall cease, and not afterwards, and shall be laid or brought in the County or Borough of Derby (within which the Cause of Action shall arise), and not elsewhere; and the Defendant or Defendants in such Action or Suit shall and may plead the General Issue, and give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act: And if it shall appear to have been so done, or if any Action or Suit shall be brought after the Time so limited for bringing the same, or shall be brought in any other County or Place than as aforesaid, then, and in such Case, the Jury shall find for the Defendant or Defendants; or if the Plaintiff or Plaintiffs shall become Nonsuit, or suffer a Discontinuance of his, her, or their Action or Suit, after the Defendant or Defendants shall have appeared, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if upon Demurrer or otherwise Judgement shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have Treble Costs, and shall have such

General Issue.

Treble Costs.

Remedy for the same as any Defendant hath for Costs of Suit in other Cases by Law.

CXXI. And be it further enacted, That this Act shall be allowed in all Courts whatsoever as a Publick Act; and all Judges, Justices, and other Persons are hereby required to take Notice of it as such, without specially pleading the same. Publick Act.

FINIS.