

ANNO TRICESIMO TERTIO

# Georgii III. Regis.

## CAP. CVII.

An Act to alter and amend an Act, paſſed in the laſt Seſſion of Parliament, intituled, *An Act for making and maintaining a Navigable Canal from* Kirkby Kendal, *in the County of* Weſtmorland, *to* Weſt Houghton, *in the County Palatine of* Lancaſter; *and alſo a Navigable Branch from the ſaid intended Canal, at or near* Borwick, *to or near* Warton Cragg, *and alſo another Navigable Branch, from, at, or near* Gale Moſs, *by* Chorley, *to or near* Duxbury, *in the ſaid County Palatine of* Lancaſter; and alſo for making a Navigable Branch from the ſaid Canal, at or near *Galgate*, to *Glaſſon Dock*, in the ſaid County Palatine of *Lancaſter*. [10th *May* 1793.]

Preamble.



WHEREAS an Act was passed in the last Session of Parliament, intituled, An Act for making and maintaining a Navigable Canal from *Kirkby Kendal*, in the County of *Westmorland*, to *West Houghton*, in the County Palatine of *Lancaster*; and also a Navigable Branch from the said intended Canal, at or near *Borwick*, to or near *Warton Cragg*; and also another Navigable Branch from, at, or near *Gale Moss*, by *Chorley*, to or near *Duxbury*, in the said County Palatine of *Lancaster*: And whereas it may be expedient and beneficial for the better effecting the Objects and Purposes of the said Act, that the Company of Proprietors of the Lancaster Canal Navigation be impowered to make a certain other Navigable Branch from the said Canal, near or at a Place called Galgate, through the Townships of Ellel and Thurnham, to communicate with the Dock at Glasson, in the said County of Lancaster: And whereas, in and by the said Act, Powers are given to the said Company of Proprietors to supply the said intended Canal and Branches with Water from the River Loyne otherwise Lune, and from other Rivers and Places in the said Act mentioned; and in the making of the said Canal, and the Works necessary thereto, the said Company of Proprietors are by the said Act impowered to enter the Lands and Grounds adjoining thereto, and from thence to get, take, and carry away Trees and Roots of Trees, and other Materials, for the Purposes of the said Canal, subject to certain Restrictions and Limitations in the said Act contained, for the Protection of the Rights and Interests of Owners of Mills and Fisheries, and of other Persons interested in the Water authorized to be taken for the Purposes aforesaid: And whereas it is proper that some Alterations and Amendments should be made in the said recited Act, as well for the further protecting and securing the respective Persons before mentioned from Injury or Damage, as for the more effectually carrying the Purposes of the said Act into Execution: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful for the said Company of Proprietors of the Lancaster Canal Navigation, and they are hereby authorized and impowered

Power to make the Branch to *Glasson* Dock.

impowered (exclusive of and besides the Two several Branches in the said Act mentioned) to make, complete, and maintain a certain other Navigable Branch from the said Lancaster Canal, commencing at or near Galgate, in certain Closes or Parcels of Land belonging to Master John Welch and Thomas Lodge Esquire, through the several Lands of the said Thomas Lodge, John Dalton Esquire, Master John Brockbank, and the Commissioners for improving the Navigation of the River Loyne otherwise Lune, in the several Townships of Ellel and Thurnham, in the said County Palatine of Lancaster, to be continued to and communicate with the Dock at Glasson, within the Port of Lancaster; and the said Company of Proprietors are hereby also authorized to purchase, have, and enjoy Lands, to them, their Successors and Assigns, for the Purposes of the said last mentioned Navigable Branch, and to make, erect, execute, do, and perform all such Matters and Things as shall be requisite and convenient for making, completing, and maintaining the same Branch, and the Navigation thereof, and for supplying the same with Water, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as the said Company of Proprietors are authorized and impowered to do, execute, and perform, under and by virtue of the said recited Act, with respect to the said Lancaster Canal and Branches thereof; and the several Powers, Authorities, Provisions, Limitations, Exemptions, Privileges, Penalties, Forfeitures, Punishments, Matters, and Things in the said Act contained, (and not repealed, altered, re-enacted, or otherwise provided for in and by this present Act), for making, completing, preserving, and maintaining the said Canal, Branches, and other Works thereby authorized to be done, and for supplying the same with Water, so far as the Nature and Circumstances of the Case will admit, shall be used and exercised by the said Company of Proprietors, and shall be applied and enforced for making, completing, preserving, and maintaining the said Navigable Branch hereby authorized to be made, and supplying the same with Water, and also for making, erecting, executing, doing, and performing all such other Works, Matters, and Things as the said Company of Proprietors shall think necessary or expedient for the Benefit of the said Undertaking; and that the same Persons who are appointed or provided to be Commissioners for putting the said recited Act in Execution shall be Commissioners for the Purposes of this Act; and all and every other Person and Persons

Powers of former Act extended to this Act.

appearing or being summoned as Jurors or Witnesses shall be and be liable in like Manner, and as fully and effectually, to all Intents and Purposes, as if the several Powers, Authorities, Provisions, Securities, Limitations, Exemptions, Privileges, Penalties, Forfeitures, Punishments, Appointment of Commissioners, Jurors, and other Persons, Matters and Things contained in the said recited Act, and which are now in Force, were repeated and re-enacted in the Body of this present Act, and as if the Navigable Branch and other Works by this Act intended to be made, completed, and maintained, had been Part of the Canal, Branches, and other Works by the said recited Act intended to be made, completed, and maintained.

Branch to *Glasson* liable to the same Rates and Regulations as in the former Act.

II. And be it further enacted by the Authority aforesaid, That the said Company of Proprietors shall and may impose, have, take, and receive the same Tonnage and Wharfage Rates and Duties, and have the same Benefit of recovering thereof, and be subject to the same Regulations in respect of the said intended Branch to Glasson Dock as in the said recited Act are provided with respect to the said Lancaster Canal and Branches.

Map of the Branch deposited with the Clerk of the Peace for Inspection.

III. And whereas a Map or Plan, describing the Line of the said intended Branch to Glasson Dock, and the Lands through which the same is intended to be carried, together with a List of Reference, containing 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 Lancaster; be it therefore further enacted, That the said Map or Plan and List of Reference shall remain in the Custody of the Clerk of the Peace for the said County, and all Persons shall, at any reasonable 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 One Shilling 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 Branch, 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: Provided always, that no Advantage shall be taken of or against the said Company of Proprietors, or any Interruption be given to the making of the said intended Canal on Account of any Error or Omission in the said List

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of Reference, in case it shall appear to any Five or more of the said Commissioners, and be certified in Writing under their Hands, that such Error or Omission proceeded from Mistake: Provided always, that no Deviation shall be made from the Line or Course of the said intended Canal into any Lands or Grounds not described in the said Plan and List of Reference, without the Consent in Writing of the Person or Persons through whose Lands or Grounds such Deviation shall be made.

Restraining the Company of Proprietors from using the Water of the River *Loyne*, except for the Purpose of erecting an Aqueduct Bridge.

IV. And be it further enacted by the Authority aforesaid, That so much of the said Act, passed in the last Session of Parliament, as in anywise impowers or enables the said Company of Proprietors of the Lancaster Canal Navigation, or their Successors, or their Servants, Agents, or Workmen, to divert, take, have, draw, or use Water of or from the said River Loyne otherwise Lune, shall be, and the same is hereby repealed, and that nothing in this present Act contained shall extend, or be deemed or construed to extend, to enable or impower the said Company of Proprietors, or their Successors, or their Servants, Agents, or Workmen, to divert, take, have, draw, or use Water of or from the said River Loyne otherwise Lune, but that the said Company of Proprietors, and their Successors, and their Servants, Agents, and Workmen, shall be, and they are hereby prohibited and restrained from diverting, taking, having, drawing, or using Water of or from the said River Loyne otherwise Lune, except for such Uses and Purposes as may be requisite in erecting an Aqueduct Bridge over the said River, in the Townships of Bulk and Halton, for which last-mentioned Uses or Purposes the said Company of Proprietors are hereby impowered and enabled to take and use Water from the said River, until the said Aqueduct Bridge shall be erected, subject to, and upon full and due Performance of all and every the Stipulations and Conditions of a certain Agreement entered into or executed between Thomas Rawlinson Esquire, on the Part of the said Company of Proprietors, or the Undertakers of the said Canal, and the Reverend James Stainbank, on the Part of William Bradshaw Bradshaw Esquire, mentioned and referred to in the said recited Act.

Restrictions as to taking Water from the Springs or Feeders of the River *Wyer*, and from felling Timber not growing in the Line of

V. Provided always, and be it further enacted by the Authority aforesaid, That it shall not be lawful for the said Company of Proprietors, their Servants, Agents, or Workmen, to divert, take, have, draw, or use, and they are hereby restrained from diverting, taking, having, drawing, or using (for the Use, Purpose, or Supply of

the said Canal and Branches.

the said Lancaster Canal and Branches, or any of them), any Water of or from the Springs or Feeders of the River Wyer, and from felling, cutting down, or taking away Timber or other Trees not growing on the Line of the said intended Canal and Branches, without the Consent in Writing of the Proprietors thereof.

VI. And whereas much Delay, Inconvenience, and Expence in the Purchase and Conveyance of Lands for the Purposes of the said Navigation may be avoided by adopting a short and compendious Mode and Form of Conveyance for the Purpose of vesting such Lands and Interest; be it further enacted by the Authority aforesaid, That all Conveyances and Assurances for the Intent and Purpose of vesting Lands in the said Company, in Fee, for the Purposes of this present or of the said former Act, shall be made according to the Form, or to the Effect following; (videlicet),

Form of Conveyance of Lands.

I *A. B.* in Consideration of the Sum of to me paid by the Company of Proprietors of the *Lancaster* Canal Navigation, do hereby grant, bargain, sell, and release to the said Company, all [*describing the Parcels to be conveyed*] and all my Right, Title, and Interest in and to the same, and every Part thereof, to hold to the said Company of Proprietors, their Successors and Assigns for ever, by virtue of and according to the true Intent and Meaning of the Acts of Parliament for making and maintaining the said *Lancaster* Canal, and the several Branches thereof; all which said Hereditaments and Premises, I the said *A. B.* do hereby warrant and for ever defend to the said Company, their Successors and Assigns, against me the said *A. B.* and my Heirs for ever, by these Presents. In Witness whereof, I have hereunto set my Hand and Seal, this Day of in the Year of our Lord

And in case the Title, in Fee, to such Hereditaments and Premises cannot be made out to the Satisfaction of the said Company of Proprietors, or their Successors or Assigns, then, and in all such Cases, from the Time of making such Contract until a good Title shall be made to such Hereditaments and Premises respectively, as hereinbefore mentioned, a Conveyance or Assurance for vesting the same in the said Company, in Consideration of an Annual Rent, shall and may be made, and shall be valid and effectual for such Purpose, in the Form or to the Effect following; (videlicet),

I *A. B.* of in Consideration of the yearly Rent or Sum of herein-after reserved, do demise and grant unto the said Company of Proprietors, their Successors and Assigns, all [*describing the Parcels to be conveyed*] and all my Right, Title, and Interest in and to the same, and every Part thereof, to hold to the said Company of Proprietors, their Successors and Assigns, by virtue of and according to the true Intent and Meaning of the Acts of Parliament for making and maintaining of the said *Lancaster* Canal, and the several Branches thereof, they the said Company of Proprietors, their Successors and Assigns, yielding and paying to the said *A. B.* [*or the Person or Persons entitled to the said Premises for the Time being*] the Annual Rent or Sum of

In Witness whereof the said *A. B.* hath hereunto set his Hand and Seal, and the said Company have caused to be affixed their Common Seal, this Day of in the Year of our Lord

Form of Conveyance when an Annual Rent is reserved.

And every such Conveyance and Conveyances to the Purport or Effect aforesaid shall be valid and effectual, and shall be kept by the Clerk or Clerks to the said Company of Proprietors, who shall, from Time to Time, when required, deliver attested Copies thereof to any Person or Persons requesting the same, and shall have and receive Sixpence for every One hundred Words of each such attested Copy, and so in Proportion for any less Number of Words, any Thing herein or in the said recited Act contained to the contrary notwithstanding.

VII. And be it further enacted and declared, That the said Company of Proprietors shall, from Time to Time, be rated to all Parliamentary and Parochial Taxes and Assessments, for and in respect of the Lands to be purchased or taken by the said Company of Proprietors in pursuance of this Act, in the same Proportion as other Lands lying near the same are and shall be rated, and as the same Lands so to be purchased or taken would be rateable, in case the same were the Property of Individuals in their natural Capacity.

Lands purchased by the Company, to be rated in the same Proportion as other Lands.

VIII. And be it further enacted, That full Recompence and Satisfaction shall be made by the said Company of Proprietors 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, or hereafter may 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

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

commencing at Michaelmas Day One thousand seven hundred and eighty-eight, and ending at Michaelmas Day One thousand seven hundred and ninety-two, such Average Value to be ascertained (in case of any Difference concerning the same) in like Manner as the Value of any other Hereditaments are by the said recited Act directed to be ascertained: Provided always, that such Recompence and Satisfaction shall be made to all spiritual Persons by an Annual Rent.

Justices may, on View, order the diverting of Roads.

IX. And be it further enacted, That where it shall appear, upon the View of any Two or more of His Majesty's Justices of the Peace in and for the said Counties of Westmorland and Lancaster respectively, that the Alteration, diverting, or stopping of ancient Highways, or of other Ways or Roads, whether publick or private, to be touched upon, crossed, or approached, in the laying out or making the said Canal and Branches, or any of them, in either of the said Counties respectively, and that the making of new or other Ways or Roads in lieu thereof may be advantageous to the Publick, or to the Persons having Right of Way on such Roads respectively, or may be beneficial or expedient to or for the Purposes of the said Canal or Branches, and Navigations, without being detrimental or inconvenient to the Publick, or such Persons, such Justices shall and may, and they are hereby required and impowered, within their respective Jurisdictions, to order, award, and direct that such publick Highways, or other Roads and Ways, shall be stopped up, and that other good and sufficient Ways or Roads shall be made in lieu thereof, or that the same shall be diverted and turned, as the Case may require, so as that such Highways, or other Roads or Ways, be not actually stopped up or diverted till the new or other Ways or Roads shall be made good and passable, and so as in the stopping up, altering, turning, or diverting such publick or other Ways or Roads, and in making others in lieu thereof, the same be done conformably to the Directions and Provisions contained in the general Highway Act, passed in the Thirteenth Year of the Reign of His present Majesty, or as nearly thereto as the Case will admit of; and the making, diverting, turning, or stopping up of all such Ways or Roads, and the pulling down of all such Bridges as may be rendered useless, and of constructing of all such Bridges as may be requisite for the using of such new or diverted Roads or Ways, shall be at the Expence of the said Company of Proprietors, and their Successors; and from and after the making or completing such Ways, Roads, Bridges, and Works, the same shall be deemed

and

and taken to be of the same Nature as the former Ways respectively were, whether publick or private, and the future Amendment and Reparation thereof shall, from Time to Time, be made by such Counties, Hundreds, Places, Parishes, Townships, or Persons as were before liable to the Reparation or Amendment of the Ways or Roads so stopped up, diverted, or turned, respectively; and they the said Company of Proprietors, and their Successors, shall and may purchase and enjoy such Lands as shall be necessary for such new or other Roads or Ways to be made, turned, or diverted, in the same Manner, and making Compensation for the same, as in and by the said Lancaster Canal Navigation Act is provided for; and the Ground and Soil of such publick or Township Ways or Roads as shall be stopped up or diverted (but not of any private or other Roads or Ways) shall, from and after the completing of the Roads to be made in lieu thereof, be taken, and is hereby declared to be vested in the said Company of Proprietors, their Successors and Assigns, to be enjoyed by them as Part of the Lands or Grounds which they are impowered and authorized to purchase in and by the said Lancaster Canal Navigation Act, or by this present Act, for the Purposes of the said Canal or Navigation, and the Branches thereof.

Power to take Water from Mines.

X. And whereas the making such Canal and Branches will be of considerable Advantage to the Owners and Occupiers of the several Coal Mines, and other Mines and Minerals, already opened, and which may be opened contiguous or near to the said Canal and Branches, and it will be necessary for supplying the said Canal and Branches with Water, that the Water to be raised by the Engines or other Machines erected or to be erected for draining the said Mines should be discharged into the said Canal or Branches; be it therefore further enacted, That it shall be lawful for the said Company of Proprietors, and they are hereby authorized and impowered to have, divert, and take the Water to be raised or drained by means of any Fire Engine, Machine, or Level already or hereafter to be erected, made, or opened, in or upon any Lands or Mines within the Distance of Two thousand Yards of the said Canal or Branches, or any of them, without any Recompence or Satisfaction being made by the said Company of Proprietors for the Water so to be diverted and taken, and that it shall be lawful for the said Company of Proprietors, for the Purpose of supplying the said Canal and Branches with the said last-mentioned Water, and for the conveying of the same thereto, to make any such Reservoir or Reservoirs, Tunnels, Trenches, Aque-

ducts, or Feeders, as they shall judge necessary, doing no Injury thereby to any Mines lying under or near to such Reservoir or Reservoirs, Trenches, Aqueducts, or Feeders, and making Recompence and Amends to the Owners and Proprietors of the Lands in or through which the same shall be made in Manner as herein and by the said recited Act is directed and provided for any Lands to be taken or used for the same or for any Damage to be occasioned to any other Lands by reason of the making of any such Reservoirs, Trenches, Aqueducts, or Feeders.

To oblige the Proprietors of Fire Engines to lift their Water into the Canal and Branches.

XI. And be it further enacted, That all Owners and Occupiers of Mines, who shall at any Time or Times navigate or make use of the said Canal or Branches, or any Part or Parts thereof, for the Purposes of conveying their Coals or other Minerals, or whose Coals or other Minerals shall be conveyed thereby, shall and are hereby required to cause to be lifted and drawn up all such Water as shall, from Time to Time, be raised by any Fire Engine or Machine erected, or to be erected or used for the Purposes of working their Mines, to such a Height or Level as may be sufficient to convey such Water into the said Canal or Branches, so as such Owners or Occupiers be not obliged to raise the said Water at their own Expence, higher than may be necessary for draining and discharging the Water from their Mines; but that in case the said Company of Proprietors shall, for the Purpose of supplying the said Canal and Branches with Water, think it expedient that the Owners or Occupiers of any such Fire Engine or other Machine shall raise the Water out of their Mines to a higher Level than may be necessary for the draining and discharging such Water out of such Mines, they shall give Notice in Writing, under the Seal of the said Company of Proprietors, or under the Hand of their Clerk, requiring the said Water so under Level to be drawn into the said Canal or Branches, or any of them, then, and in such Case, the Owners or Occupiers of such Fire Engine or other Machines shall be obliged to lift up such Water into the said Canal or Branches, agreeably to such Notice; and the said Company of Proprietors shall, and they are hereby directed to make Compensation, from Time to Time, to the Owners or Occupiers of any such Fire Engine or other Machines for all extraordinary Expences they may thereby be put to, and for all Damages which shall be occasioned thereby, to any Mines or other Works, either by an Annual Rent, or any Allowance in Gross, at the Option of such Owners

or Occupiers; and in case the said Company of Proprietors and the Owners or Occupiers of any such Fire Engine or other Machines shall not agree upon such Compensation, the same shall be adjudged and determined in the same Manner as is in and by the said recited Act directed with respect to the Satisfaction to be made to the Owners of Lands to be taken for the Use of the said Canal and Branches; and in case the Owner or Occupier of any Fire Engine or other Machine which shall be worked or used for the Purpose of draining the Water out of such Mines refuses or neglects, after Notice in Writing for that Purpose to be given him by the said Company of Proprietors or their Clerk, to lift or raise the Water to be drawn out of his or her Mines to the Height and Level of the said Canal and Branches, and in Manner herein-before directed, that then it shall be lawful for the said Company of Proprietors, from Time to Time, to hinder and prevent the Owner or Occupier of such Fire Engine or other Machine and Mines, or any other Person or Persons, from navigating or conveying any Coal or other Minerals which shall be gotten from such Mines upon the said Canal or Branches, or any Part or Parts thereof, during the Refusal or Neglect of such Owners or Occupiers as aforesaid, and for any further Time not exceeding the Space of Two Months next after the said Water shall be conveyed to the said Canal or Branches, any Thing herein or in the said recited Act to the contrary thereof notwithstanding.

Restrictions as to the Use of the Water so raised.

XII. Provided always, That nothing herein contained shall authorize the said Proprietors of the Lancaster Canal Navigation, to take any Water which shall be raised by any Engine or Machine erected or to be erected on the East Side of that Part of the intended Canal from Leeds to Liverpool, which shall lie between Heapy Chapel, in Heapy, and the Township of Anderton, in the said County Palatine of Lancaster, or to take or use any Water which shall be raised by any Engine or Machine erected or to be erected on either Side of any other Part of the said Leeds and Liverpool Canal, within the Distance of One thousand Yards thereof, (except between Bradshaw Hall, in Aspull, in the said County, and Great Ince Hall, in Ince, in the said County: Provided also, that nothing herein contained shall extend, or be construed to extend, to repeal, alter, abridge, or diminish any of the Powers or Authorities with respect to the taking or using of any Water, and which are contained in the said recited Act for making and maintaining

taining the said Lancaster Canal, or in a certain Act of Parliament passed in the Sixth Year of his late Majesty King George the First, for making the River Douglas, alias Asland, navigable.

Expences of Act how to be paid.

XIII. And be it further enacted, That the Costs and Charges of obtaining and passing this Act, and of making the Surveys, Plans, and Estimates incident thereto, and all other Costs, Charges, and Expences concerning the same, shall be borne, paid, and defrayed by the said Company of Proprietors, in the same Manner as the Expences, Costs and Charges provided for in and by the said recited Act are directed to be paid and defrayed; and that this Act shall be deemed and taken to be a Publick Act, and shall be judicially taken Notice of as such, by all Judges, Justices, and other Persons, without specially pleading the same.

Publick Act.

FINIS.