ANNO TRICESIMO TERTIO

Georgii III. Regis.

CAP. CXI.

An Act for making and maintaining a Navigable Canal from the Collieries at *Shipley* and *Westhallam*, in the County of *Derby*, to the *Erewash* Canal, in the Parish of *Stanton by Dale*, in the said County. [3d *June* 1793.]

WHEREAS the making and maintaining a Navigable Canal from certain Coal Mines called Shipley and Westhallam Collieries, in the County of Derby, to join and communicate with a certain Navigable Canal, made in pursuance of an Act of Parliament of the Seventeenth Year of the Reign of His present Majesty, called The Erewash Canal, in the Parish of Stanton by Dale, in the said County, being about the Distance of Five Miles, will be of publick Utility: And whereas Sir Henry Hunloke Baronet is Owner of the said Westhallam Colliery, and Edward Miller Mundy Esquire is Owner of the said Shipley Colliery: And whereas the said Sir Henry Hunloke and the said Edward Miller Mundy are willing and desirous to undertake to make and maintain such Navigable Canal as aforesaid: 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 Preamble.

King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Sir Henry Hunloke and Edward Miller Mundy, their respective Executors, Administrators, and Assigns, are hereby appointed Proprietors of the intended Canal, and the said Proprietors shall be and are hereby authorized and impowered, by themselves, their Agents, and Workmen, to make and complete a Canal, navigable and passable for Boats, Barges, and other Vessels, from the said Shipley and Westhallam Collieries, or either of them, to and to join and communicate with the said Erewash Canal, in the said Parish of Stanton by Dale, and from Time to Time to support and maintain the same; which said intended Canal shall be called The Nutbrook Canal; and the said Proprietors are hereby authorized and impowered, by themselves, their Agents and Workmen, to supply the said intended Canal whilst the same shall be making, and when made, with Water from and out of any Springs which are or shall be found in digging or making the said intended Canal, and also from and out of any Brooks, Streams, Springs, and Watercourses which are or shall be found within the Distance of Two hundred Yards thereof, but so as not to injure any Iron Works, or Coal Works, or other Works that now are or hereafter shall be within the Parishes of Stanton by Dale, Dale otherwise Dale Abbey, and Ilkeston, or any of them, in the said County; and also to make such Basons, Reservoirs, Feeders, Trenches, Gutters, and Watercourses as they shall think proper, and also any Engines or other Machines for supplying the said intended Canal with Water; and also to make, erect, and set up, in or upon the said intended Canal, or upon the Lands adjoining or near thereto, and to repair, support, vary, or alter any Bridges, Tunnels, Aqueducts, Sluices, Locks, Wharf or Wharfs, Quays, Weigh Beams, and other Works and Conveniences, as the said Proprietors shall think requisite and convenient for the Purposes of the said Navigation, and also to dig, search for, get, work, manufacture, take, and carry away any Soil, Clay, Gravel, Stone, or other Materials necessary or proper for the Purposes aforesaid, in, from, or out of any of the Lands or Grounds near to the Place or Places where the said Works, or any of them, shall be or are intended to be made, repaired, or done; and also to make, set out, and appoint such Towing Path and Banks, convenient for towing, haling, or drawing of

Boats, Barges, or other Vessels passing upon the said intended Canal; and to construct, make, erect, and do all other Acts, Matters, and Things which the said Proprietors shall think necessary and convenient for the making, preserving, improving, completing, and using the said intended Canal, and the Navigation thereof, according to the true Intent and Meaning of this Act; and for the Purposes aforesaid, the said Proprietors, and their Agents and Workmen, are hereby authorized and impowered to enter into and upon the Lands or Grounds of any Person or Persons, Bodies Politick or Corporate, within the Parishes of Heanor, Westhallam, Kirkhallam, Ilkeston, and Stanton by Dale, in the said County (but not within the Distance of a Quarter of a Mile of the Village of Stanton by Dale aforesaid), and to survey and take Levels of the same, or any Part thereof, and to set out and ascertain such Parts thereof, and also of any publick Roads or Highways, as they shall think necessary or proper for making the said intended Canal, and the other Works, Matters, and Conveniences aforesaid, they the said Proprietors, their Agents and Workmen, doing as little Damage as may be in the Execution of the several Powers hereby granted, and the said Proprietors making Satisfaction, as herein-after mentioned, for all Damage to be sustained by the Owners of, or Persons interested in, such Lands, Tenements, or Hereditaments respectively, as shall be taken, used, or prejudiced in or by the Execution of this Act, such Satisfaction to be made either by an annual Rent or Payment, or by a Sum of Money in Gross, at the Election of such respective Owners or Persons interested as aforesaid; and this Act shall be sufficient to indemnify the said Proprietors, and their Agents and Workmen, and all other Persons, for what they or any of them shall do by virtue of the Powers hereby granted; and the said Proprietors shall, from Time to Time, and at all Times hereafter, as often as Occasion shall be or require, at their own Costs and Charges, well and sufficiently repair the Whole of the said intended Canal, and the Locks and Gates thereof, and the Drains and other Works thereunto belonging, in such Manner as to prevent any Injury to the Lands adjoining thereto, or to any of them, by the overflowing of the Water of the said intended Canal or otherwise: Provided always, That nothing in this Act shall authorize or impower the said Proprietors to take, use, injure, or damage any House or other Building, or any Ground which upon the First Day of January One thousand seven hundred and ninety-three

was the Scite of any House, or other Building, or a Garden, Yard, Park, Paddock, planted Walk, or Avenue to a House, or a Lawn inclosed or adjoining to a House, without the Consent of the respective Owners and Occupiers thereof, or to make the Towing Path on the Eastwardly Side of the said intended Canal, within the Liberty of Littlehallam, in the said Parish of Ilkeston: Provided also, That the said Proprietors shall begin the making of the said intended Canal at the said Erewash Canal, and shall proceed with and carry the same progressively from thence towards the said Westhallam and Shipley Collieries; and shall make the Lock necessary to be made within the said Parish of Stanton by Dale before any of the other Locks that are to be made upon the said intended Canal, and also shall make the Weir for discharging the Waste Water next above the said Lock, on the South-westwardly Side of the said Canal:

Width of the Canal.

Provided also, That the Land to be taken or used for the said intended Canal and Towing Path, and the Ditches, Drains, and Fences to separate such Towing Path from the adjoining Lands, shall not exceed Twenty-four Yards in Breadth, except where the said intended Canal shall be raised higher, or cut above Five Feet deeper than the present Surface of the Land, and in such Places where it shall be judged necessary for Boats or other Vessels to turn, lie, or pass each other, nor more than Forty Yards in Breadth in any Part of the said Canal.

No Reservoir to be made in private Lands without the Consent of the Owners, &c.

II. Provided always, and be it further enacted, That no Reservoir shall be made by virtue of this Act in any private Lands without the Consent in Writing of the Owner or Owners of such Lands: Provided also, That no more Water shall be taken out of the Brook or Stream called Nutbrook into the said intended Canal, above the said Parish of Stanton by Dale, than shall be necessary for the Purposes of the said intended Navigation; any Thing in this Act to the contrary notwithstanding.

Line of Canal to be guided by Plan and Book of Reference.

III. And whereas a Map or Plan, describing the Line of the said intended Canal, and the Lands through which the same is intended to be carried, (other than and except from the South-eastwardly Corner of a Close or Piece of inclosed Ground lying in the Lordship or Liberty of Kirkhallam aforesaid, belonging to Francis Newdigate Esquire, in the Occupation of Joseph Rice, to the said Erewash Canal), together with a Book of Reference, containing a List of the Names of the Owners, or reputed Owners, and Occupiers of such Lands, hath been deposited at the Office of the Clerk of the Peace for the

said

said County of Derby: And whereas a Map or Plan, describing the Line of the said intended Canal between the said Close or Piece of inclosed Ground belonging to the said Francis Newdigate and the said Erewash Canal, and the Lands through which the same is 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, hath been made and signed by the Right Honourable Charles Earl Stanhope, being the principal Owner of the said Lands, and the said Edward Miller Mundy, on Behalf of the said Proprietors; be it therefore further enacted, That the said Plan and Book of Reference, so signed as aforesaid, or a Duplicate thereof signed in like Manner, shall, before the said Proprietors begin to make the Part of the said Canal thereby described, be deposited with the Clerk of the Peace for the County of Derby.

No Deviation from the Plans and Books of Reference.

IV. And be it further enacted, That the several Maps or Plans, and Books of Reference herein-before mentioned, shall remain in the 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 Books of Reference; and that the said Proprietors, in making the said intended Canal, shall not deviate from the respective Lines thereof described in the said Plans and Books of Reference, without the Consent in Writing of the Person or Persons through whose Lands or Grounds such Deviation shall be made.

Corporations, &c. impowered to sell Land, &c. for the Purpose of the Act.

V. And be it further enacted, That it shall be lawful for all Bodies Politick or Corporate, Husbands, Guardians, Trustees, Feoffees in Trust for Charities and other Purposes, Tenants for Life, Committees, Executors, and Administrators, not only for and on Behalf of themselves, their Heirs, and Successors, but also of their Cestuique Trusts, whether Infants, Issue unborn, Lunaticks, Idiots, Femes Covert, or other Person or 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 other Persons who are or shall be seised, possessed of, or interested in any Lands, Tenements, or Hereditaments which shall be necessary to be made use of for the Purposes herein-before mentioned, to contract for, sell, and convey, or demise for the Use of the said Navigation,

gation, unto the said Sir Henry Hunloke and Edward Miller Mundy, their Executors, Administrators, and Assigns, for the Term of Ten thousand Years, without Impeachment of or for any Manner of Waste, all such Lands, Tenements, and Hereditaments as shall be necessary for making the said intended Canal, and the Towing Path thereto, and the said Wharf or Wharfs, or other Works aforesaid, or for the Purchase of such Stone, Clay, or other Materials, as shall be necessary for making and maintaining the said intended Canal, or other Works aforesaid; and where, by making the said intended Canal, or the Conveyance of Water thereto, the Property of any Land Owner or Owners shall be separated into small Parcels, so as to render the Occupation thereof inconvenient, it shall be lawful for all and every such Bodies Politick or Corporate, and other Persons as aforesaid, by and with the Consent of any Two of His Majesty's Justices of the Peace in and for the said County of Derby, to be testified in Writing under their Hands and Seals, to contract for, sell, and dispose of, or convey in Exchange in lieu of other Lands, all or any Part or Parts of such Lands or Grounds so separated into small Parcels as aforesaid, to any Person or Persons whomsoever, for such good and valuable Consideration or Considerations, or Price or Prices, in Money or other Equivalent, as to the said Justices shall seem reasonable, and all such Contracts, Agreements, Sales, Exchanges, Demises, Conveyances, and Assurances shall be valid and effectual in Law, to all Intents and Purposes whatsoever, any Law, Statute, Usage, or Custom to the contrary thereof in anywise notwithstanding; and all Bodies Politick or Corporate, and other Persons so conveying or exchanging as aforesaid, are hereby indemnified for what they shall respectively do by virtue and in pursuance of this Act; and all such Contracts, Agreements, Sales, Exchanges, Demises, Conveyances, and Assurances (other than those which concern any Purchase or Exchange between any such respective Land Owners) so to be made as aforesaid, shall, at the Expence of the Proprietors of the said intended Canal for the Time being, be inrolled with the Clerk of the Peace for the said County of Derby, and a true Copy thereof, signed by such Clerk of the Peace for the Time being, shall be allowed to be good Evidence in all Courts whatsoever, for which Inrolment, or a Copy thereof, such Clerk of the Peace shall receive Three-pence and no more, for every One hundred Words, and so in Proportion for any greater or less Number of Words.

VI. And be it further enacted, That all Sums of Money which are to be paid to any Bodies Politick or Corporate, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, for or on Behalf of any Infants, Lunaticks, Idiots, Femes Covert, or other Cestuique Trusts, or to any Person or Persons whose Lands or Estates are limited in strict Settlement, or being Tenants for Life or in Tail, for the Purchase and Conveyance of any Lands, Tenements, or Hereditaments as aforesaid, or so much of such Sums of Money as shall remain after making the Allowance herein-after mentioned to such Persons as may have particular Interest in the Lands, shall, by such Bodies Politick or Corporate, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, Person or Persons, seised of Lands or Estates so limited in strict Settlement, or being Tenants for Life or in Tail, be laid out as soon as conveniently may be in the Purchase of Lands, Tenements, or Hereditaments in Fee Simple, and such Lands, Tenements, and Hereditaments, when purchased, as also the Lands to be taken in Exchange as herein mentioned, shall be conveyed to or to the Use of such Bodies Politick or Corporate, Corporations Aggregate or Sole, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, or to or for such other Person or Persons, and for such Estates, and to, for, upon, and subject to such Uses, Trusts, and Limitations as the Lands, Tenements, or Hereditaments for or in respect of the Purchase and Conveyance whereof such Money shall be paid, or the Lands given in Exchange, were limited, settled, and assured at the Time such Money was so agreed for as aforesaid, or so many of such Uses as shall be then existing and capable of taking Effect, such Conveyances and Settlements to be made at the Expence of the said Proprietors; and in the mean Time, and until such Purchases and Conveyances shall be made, the said Money shall be placed out by such Bodies Politick or Corporate, Feoffees in Trust, Executors, Administrators, Husbands, Guardians, Committees, or other Trustees, Person or Persons, in some of the publick Funds, or on Government or Real Securities, in the Names of Two Persons, the One to be nominated by the Parties interested therein, and the other by any Two Justices of the Peace in and for the said County of Derby, under their Hands and Seals, and the Interest arising or to be produced from any such Funds or Securities

Purchase Money to be laid out to the same Uses.

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 and conveyed, in case the same were purchased and settled pursuant to the Tenor and true Meaning of this Act; and the Justices at any Quarter Sessions of the Peace for the said County, may and are hereby impowered to settle what Shares and Proportions of such Purchase Money or Recompence for Damages as aforesaid, shall be allowed to any Tenant, or other Person having a particular Estate, Term, or Interest in the Premises, for his or her Interest therein; and that in all Cases where the Compensation to be made by the said Proprietors for any Lands to be by them used for the Purpose of making the said intended Canal or Towing Path, Wharf or Wharfs, or other Works aforesaid, or for getting Materials necessary for any of the said Works, shall be by Annual Payments of any Sum or Sums of Money, to any Owner of Lands through which any Part of the said intended Canal or Towing Path shall pass, or within which such Wharf or Wharfs, or other Works, shall be made, or out of which such Materials shall be got, such Annual Payments shall from Time to Time be made to the Person or Persons respectively, who for the Time being would have been entitled to the Lands so used, if the said intended Canal, and other Works aforesaid, had not been made.

For settling Differences.

VII. And whereas Differences may arise between the Proprietors of the said intended Canal, and some of the Owners of and Persons interested in the Lands, Tenements, or Hereditaments which shall be necessary to be made Use of for the Purposes of this Act, or which may be prejudiced by the Execution of any of the Powers hereby granted, touching the Purchase Money to be paid, or Recompence to be made to them respectively; be it therefore enacted, That all Questions and Matters respecting such Differences shall be adjusted, settled, and determined by the Justices of the Peace assembled at any General Quarter Sessions of the Peace to be held for the County of Derby, and the said Justices are hereby authorized and required, on the Application of any Party interested or concerned in any such Difference, to hear and determine the same accordingly, and to ascertain and settle what Sum and Sums of Money shall be paid by the Proprietors of the said intended Canal, either by an Annual Rent or Payment, or by a Sum of Money in Gross, at the Election of the said Owners of, or

Persons

Persons interested as aforesaid, for the Purchase of the Lands, Tenements, or Hereditaments which shall be made use of for the Purposes aforesaid, and also to determine and adjust the Recompence to be made for any Damages which may or shall be, at any Time or Times hereafter, sustained by the Owners of, or Persons interested in any Lands, Tenements, or Hereditaments, by the Execution of any of the Powers hereby granted to the Proprietors of the said intended Canal, their Agents, Workmen, or Servants, in case such Price or Value, Damages and Recompence respectively, cannot be settled, adjusted, and agreed for by and between the said Proprietors, and the Owners of, or Persons interested in the said Lands, Tenements, or Hereditaments as aforesaid, and the Determination of such Justices shall be final and conclusive upon all Persons interested.

Penalty on wilfully destroying any Works.

VIII. And be it further enacted, That if any Person shall wilfully, maliciously, and to the Prejudice of the said Navigation, break, throw down, damage, or destroy any Banks or other Works to be erected and made by virtue of this Act, every such Person 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.

Lands, &c. purchased by the Proprietors, to be vested in them.

IX. And be it further enacted, That all Lands, Tenements, and Hereditaments which shall be purchased, and all Wharfs, Warehouses, Buildings, Locks, Cuts, and other Works which shall be made, erected, and built, in pursuance and by virtue of this Act, shall be and are hereby vested in the said Sir Henry Hunloke and Edward Miller Mundy, their Executors, Administrators, and Assigns, for the Term of Ten thousand Years, without Impeachment of or for any Manner of Waste; and the said Sir Henry Hunloke and Edward Miller Mundy, their Executors, Administrators, and Assigns, shall stand and be possessed of and in the said Lands, Tenements, and Hereditaments which shall be purchased, and the Wharfs, Warehouses, Buildings, Locks, Cuts, and other Works which shall be made, erected, and built in pursuance and by virtue of this Act, for and during the said Term of Ten thousand Years, in Trust for themselves, the said Sir Henry Hunloke and Edward Miller Mundy, and such other Persons as for the Time being

shall be Proprietors of the said Navigation by virtue of this Act.

Money and Effects vested in the Proprietors.

X. And be it further enacted, That all and every Sum and Sums of Money which shall at any Time or Times be subscribed, advanced, and paid by any Person or Persons for or in respect of any Share or Shares in the said intended Canal, and also all the Money which shall or may arise from the Rates or Duties by this Act granted, or upon any other Account whatsoever by virtue of this Act, and also all Boats, Barges, Lighters, and other Vessels, and all other Matters and Things to be made, built, or provided by them for the Purpose of making, supporting, and carrying on the said Navigation, and all Securities for Money and Effects of or belonging to the said Navigation, shall be and the same are hereby vested in the said Sir Henry Hunloke and Edward Miller Mundy, their Executors, Administrators, and Assigns, in Trust for themselves, and such other Persons as for the Time being shall be Proprietors of the said Navigation by virtue of this Act.

Proprietors may raise Money.

XI. And, to the End that the said Sir Henry Hunloke and Edward Miller Mundy may be enabled to carry on the said Undertaking, be it enacted, That it shall and may be lawful to and for them the said Sir Henry Hunloke and Edward Miller Mundy, their Executors or Administrators, by Writing under their Hands and Seals, to grant and assign any Share or Shares of and in the said Navigation to such Person or Persons, and in such Proportions, as to them shall seem meet and convenient, and thereby to raise a competent Sum of Money for making, completing, and maintaining the said intended Canal, provided that the said Sum doth not exceed the Sum of Thirteen thousand Pounds in the Whole, (except as hereinafter mentioned), and that the same be divided into such Number of Shares as herein-after directed, each Share not to exceed One hundred Pounds, and that no Person shall become a Proprietor for less than One Share, and the Money so to be raised is hereby appointed to be laid out and applied, in the First Place, to pay off and discharge all Expences incurred in obtaining and passing this Act, and of making Surveys, Plans, and Estimates, and doing and providing all other Matters and Things preparatory and previous thereto, or in consequence thereof, and in paying any Expences already incurred in cutting any Part of the said Canal; and all the Residue and Remainder of such Money shall be laid out and applied for and towards making, completing, and maintaining the said intended Canal, and other the Purposes

of this Act, and to no other Use, Intent, or Purpose whatsoever.

XII. And be it hereby further enacted, That the said Sum of Thirteen thousand Pounds, or such Part thereof as shall be raised in Manner aforesaid, shall be divided into One hundred and thirty 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 One hundred and thirty Shares shall be and they are hereby vested in the said Sir Henry Hunloke and Edward Miller Mundy, and the several Persons to whom the same or any of them shall be granted and assigned as aforesaid, and their several and respective Executors, Administrators, and Assigns, to their and every of their proper Use and Benefit, in Proportion and according to the Sum they and each of them shall severally pay thereto, and all and every the said Shares shall be deemed to be Personal Estate, and transmissible as such, and not of the Nature of Real Property; and all Bodies Politick and Corporate, Person and Persons, their several and respective Successors, Executors, Administrators, and Assigns, who shall severally pay in 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 Canal, shall be entitled to and receive, after the said Canal shall be completed, the entire and neat Distribution of One One hundred and thirtieth Part or Share of the Profits and Advantages that shall or may arise and accrue by virtue of the Sum and 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 One hundred and thirtieth Part or Share in the said Undertaking, and so in Proportion as aforesaid, shall bear and pay an adequate or proportionable Sum of Money towards carrying on the said Undertaking, in Manner herein-after enacted, directed and appointed.

The Money to be raised to be divided into 130 Shares.

XIII. And be it further enacted, That every Grant and Assignment of the said Share or Shares shall be in the Form or to the Effect following:

WE, Sir *Henry Hunloke* Baronet, and *Edward Miller Mundy* Esquire, [*or*, I *A. B. as the Case may be*], in Consideration of *C. D.* of undertaking to pay the Sum of for and towards

Form of Grant of Shares.

towards the Expence of making and maintaining the *Nutbrook* Canal, do hereby grant and assign unto the said *C. D.* his [*or* her] Executors, Administrators, and Assigns, Share [*or* Shares] in the said *Nutbrook* Canal Navigation, being Number of the Shares in the said Navigation, to hold to the said *C. D.* his [*or* her] Executors, Administrators, and Assigns, subject to the Rules, Orders, and Conditions, specified in the Act of Parliament, passed for making and maintaining the said Canal: And I the said *C. D.* do hereby undertake to pay the said Sum of when and as the same shall be called for pursuant to the Directions of the said Act; and I do hereby agree to accept the said Share [*or* Shares] subject to the said Rules, Orders, and Conditions. Witness our Hands and Seals, the Day of in the Year of our Lord

Every Person to whom a 130th Share shall be granted, to be a Proprietor.

XIV. And, to the End that all Matters and Things touching, concerning, or relating to the carrying on and completing the said intended Canal may be managed and conducted in the most beneficial Manner; be it further enacted, That all and every Body and Bodies Politick and Corporate, or other Person or Persons, to whom by virtue of this Act a One hundred and thirtieth Share of the said Navigation shall be granted or assigned, shall be deemed a Proprietor for so much, and shall have a Vote in every publick Meeting or Assembly to be holden as hereinafter 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, duly authorized under his, her, or their Hand or Hands, or under the Seal or Seals of every Body or Bodies Politick or Corporate, and such Vote or Votes by Proxy shall be good and sufficient to all Intents and Purposes, as if such Principal or Principals had voted in Person; the Appointment of which Proxy shall and may be made in the Words or to the Effect following:

I *A. B.* of One of the Proprietors of the *Nutbrook* Canal, do hereby nominate, constitute, and appoint *C. D.* 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 Undertaking, that shall be mentioned or proposed at any Meeting of the Proprietors of the said Canal, or any of them, in such Manner as he the said *C. D.* shall think proper, according to his Opinion and Judgement, for the Benefit of the said Undertaking, or any Thing appertaining

taining thereto. In Witneſs whereof I have hereunto ſet my Hand, the Day of

And any Body or Bodies Politick or Corporate, Perſon or Perſons, who ſhall have One or more ſuch Share or Shares, ſhall have Liberty by him, her, or themſelves, or by his, her, or their Proxy or Proxies regularly authorized as aforeſaid, to give One Vote for each ſuch Share, and for which he, ſhe, or they ſhall be or become a Proprietor as aforeſaid, and whatſoever Queſtion, Election of Officers, or other Matters or Things ſhall be propoſed, diſcuſſed, or conſidered in any publick Aſſembly to be holden by virtue of this Act, ſhall be finally determined by the Majority of Votes and Proxies then preſent, computing One Vote for every Share, and every ſuch Determination ſhall be valid and binding upon the reſt of the ſaid Proprietors: Provided always, that no Proprietor ſhall be capable of voting for more than Seven Shares, notwithſtanding he may be poſſeſſed of a greater Number of Shares.

Power to raiſe an additional Sum if neceſſary.

XV. And be it further enacted, That in caſe the ſaid Sum of Thirteen thouſand Pounds, herein-before authorized to be raiſed, ſhall be found inſufficient for the Purpoſes aforeſaid, then, and in ſuch Caſe, it ſhall and may be lawful to and for the Proprietors of the ſaid intended Canal for the Time being, to raiſe and contribute amongſt themſelves, in Manner and Form aforeſaid, any further or other Sum or Sums of Money for completing and perfecting the ſaid intended Canal, not exceeding the Sum of Six thouſand five hundred Pounds, and every Subſcriber towards raiſing ſuch further or other Sum of Money, ſhall have a like Vote, either perſonally or by Proxy, in reſpect of every ſuch Share in the ſaid additional Sum of Money to be raiſed, and ſhall alſo ſtand intereſted in all the ſaid Profits and Powers of the ſaid intended Canal, in Proportion to the Sum or Sums of Money 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 or Sums of Money, hereby allowed to be ſubſcribed for and raiſed, had originally been Part of the ſaid Thirteen thouſand Pounds; any Thing herein contained to the contrary thereof in any wiſe notwithſtanding.

No Perſon to act as a Proprietor who has not One whole Share.

XVI. Provided always, That no Perſon ſhall be capable of acting as a Proprietor for any of the Purpoſes of this Act, who ſhall not be poſſeſſed of One whole Share.

XVII. And

General Assemblies of the Proprietors.

XVII. And be it further enacted, That there shall be One annual General Assembly or Meeting of the said Proprietors for putting this Act into Execution, the First of which shall be holden at the House known by the Sign of The Blackmoor's Head, in the Town of Nottingham, upon the Third Day of July One thousand seven hundred and ninety-three, and the like General Assemblies or Meetings shall be holden on the First Wednesday in the Month of June in every Year for the future, at or before the Hour of Eleven of the Clock in the Forenoon, at such respective Places as shall from Time to Time be ascertained and fixed at any preceding General Meeting; at which said First General Meeting the Proprietors assembled, together with such Proxies as shall be then present, shall choose a Committee of not exceeding Five, nor less than Three Proprietors of the said Navigation, to direct, manage, contract for, and carry on the said intended Canal, and all the Affairs of the said Proprietors for the Year then next following, and until another Committee shall be appointed, and to do all and every other Matters and Things whatsoever relating thereto; at which Meeting also the said Proprietors shall choose or appoint a Treasurer and a Clerk, with fixed Salaries, who shall always attend the General Meetings and Assemblies of the said Proprietors, and the Meetings of the said Committee, and make Entries, and do whatsoever shall be ordered at such Meetings: Provided always, That such Committee shall from Time to Time make Reports of their Proceedings to the said General Assembly, and be subject to the Examination, and under the Controul of the said General Assembly of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises, as they shall from Time to Time receive from the said Proprietors at any such General Assemblies, such Orders and Directions not being contrary to any express Directions or Provisions in this Act contained: 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.

Committee to be chosen;

and Officers.

Annual Appointment of the Committee.

XVIII. And be it further enacted, That the said Committee of Proprietors shall afterwards be annually chosen at a General Meeting of Proprietors, and shall meet constantly Once a Month, or oftener if the said Committee shall find it necessary,

neceſſary, at a Day, Hour, and Place to be appointed, until the ſaid intended Canal ſhall be completed, and as often afterwards, at ſuch Place to be by them appointed, after Seven Days Notice being given thereof by the Clerk to the ſaid Proprietors, as Occaſion ſhall require.

Meetings of Proprietors may be called upon Emergencies.

XIX. And be it further enacted, That if it ſhall at any Time appear to any Five or more of ſuch Proprietors, that for the more effectually putting this Act into Execution, an occaſional General Meeting of Proprietors is neceſſary to be holden, it ſhall be lawful for ſuch Five or more of them to cauſe Notice to be given thereof in the Derby Newſpaper, declaring in ſuch Notice the Place where, and the Time when ſuch Meeting is to be holden, (the ſame not being leſs than Fourteen Days after ſuch Notice given), and likewiſe ſpecifying in every ſuch Notice, the Reaſon for, and Intention of ſuch Meetings reſpectively, and the Proprietors are hereby authorized to meet purſuant to ſuch Notice, and proceed to the Execution of the Powers by this Act given with reſpect to the Matters ſo ſpecified only; and every ſuch Act of the Proprietors, to be determined by the major Part of Votes and Proxies at ſuch Meetings aſſembled, ſhall be as valid, to all Intents and Purpoſes, as if the ſame were done at an annual General Meeting held in the Manner hereinbefore appointed.

General Aſſemblies to conſiſt of Fifty Shares.

XX. Provided always, That if at any ſuch General or Special Aſſembly there ſhall not be Perſons preſent who have Fifty ſuch Shares as aforeſaid, 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 intended Canal at the ſame Place upon that Day Week next following, and ſuch Choice ſhall be then made of Perſons to be of the Committee, as ought to have been made at the Day hereinbefore appointed, had there then been a ſufficient Number of Shares preſent, and the Perſons then choſen to be of the ſaid Committee ſhall have the ſame Power which they would have had, and be continued in ſuch Offices until ſuch Time as they would have done, had they been choſen on the ſame Day herein-before appointed; and that in caſe of Failure of the Meeting of the Perſons, having Fifty Shares as aforeſaid, at ſuch Firſt Meeting, the whole Number of Principals who ſhall not be preſent at ſuch Second Meeting, by him, her, or themſelves, or his, her, or their Proxies, ſhall forfeit to the ſaid Proprietors, for every ſuch Share which he, ſhe, or they ſhall then have in the ſaid intended Canal, the Sum of Five Shillings, to be ſtopped out of the next Payment

Proprietors not meeting to forfeit Five Shillings for each Share.

of Interest, or out of the next Dividend of the Profits of the said Undertaking, as the Case may happen.

General Assemblies may audit and settle Accounts.

XXI. And be it further enacted, That every such General Assembly shall have Power from Time to Time to call for, audit, and settle all Accounts of Money laid out and disbursed concerning the said Navigation, with the Receiver or Receivers, and other Officer or 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 intended Canal, and for that Purpose shall have Power to adjourn themselves over from Time to Time, and from Place to Place, as shall be thought convenient; and every General Assembly, or such Committee, shall have Power from Time to Time to make such Call or Calls of Money from the said Proprietors to defray the Expences of carrying on the said intended Canal, as they from Time to Time shall find wanting and necessary for the several Purposes aforesaid, so as that the First Call shall not exceed the Sum of Twenty Pounds for every One hundred Pounds, and every succeeding Call not to exceed the Sum of Ten Pounds for every 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 Money so called for shall be paid into the Hands of the Treasurer of the said Proprietors for the Time being, to be paid and applied in such Manner as the said General Assembly shall from Time to Time appoint and direct for the Use of the said Undertaking; and such Committee shall, until the next General, Annual, or other Assembly to be holden in Manner as aforesaid, have full Power and Authority to direct and manage all and every the Affairs of the said Proprietors, as well in buying and purchasing Lands, Liberties, and Materials for the Use of the said intended Canal, as in employing, ordering, and directing the Works and Workmen, and in placing and displacing under Officers, Clerks, Servants, and Agents, and in making all Contracts and Bargains touching the said Undertaking, so that no such Purchase, Bargain, or other Matter, be done or transacted without the Concurrence of a Majority of the said Committee absolutely then and there assembled; and such Committee may adjourn themselves from Time to Time as they shall see Occasion; and every Owner or Owners of One or more Part or Parts, Share or Shares in the said Undertaking, shall pay his, her, or their Share or Proportion, Shares or Proportions, of the Monies to be called for as aforesaid, at such Time and Place as shall be appointed, of

Power in the General Assembly or Committee to make Calls.

which One Calendar Month's Notice (except the First Call of Twenty Pounds per Centum, which may be at Ten Days Notice) shall be given by the Clerk of the said Proprietors, by publishing the same in the Derby Newspaper; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share, Parts or Shares, of the said Money to be called for by the First Call as aforesaid, at the Time and Place so to be appointed as aforesaid, it shall be lawful for the said Proprietors, in the Name of their Treasurer for the Time being, to sue for and recover the same in any of His Majesty's Courts of Record, by Action of Debt, or on the Case, Bill, Suit, or Information; and in case 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, for the Space of Fourteen Days after the Time and Place so appointed for Payment thereof as aforesaid, then he, she, or they, so neglecting or refusing, shall forfeit the Sum of Five Pounds for every of his, her, or their respective Share or Shares, Parts and Interests in the said intended Canal, Undertaking, and Premises; and in case any such Person or Persons shall neglect 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, for the Space of Two Calendar Months after the Time appointed for the Payment thereof as aforesaid, then he, she, or they so neglecting, shall forfeit his, her and their respective Share and Shares, Parts and Interests in the said intended Canal, Undertaking, and Premises, and all the Profit and Benefit thereof, all which Forfeitures shall go to the rest of the Proprietors of the said intended Canal, in Proportion to their respective Interests therein.

Proprietors to have Notice before their Shares are forfeited.

XXII. Provided always, That no Advantage shall be taken of any Forfeitures of any Share or Shares of the said intended Undertaking and Premises, till after the same shall be declared to be forfeited at some General Assembly of the said Proprietors which shall be holden within Six Calendar Months next after such Forfeiture shall incur or be made; and every such Forfeiture shall be an Indemnification 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 respect to the carrying on the said intended Canal.

XXIII. And

Power in General Assemblies to make Bye Laws.

XXIII. And be it further enacted, That the said Proprietors for the Time being shall always have Power and Authority, at any General Assembly, to remove or displace any Person or Persons chosen to be of such Committee as aforesaid, or any Officer or Officers under them, and to choose and appoint new ones, and to revoke, alter, amend, or change any of the Rules or Directions hereinbefore prescribed and 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, and voting and appointing Committees, only excepted), and shall have Power to make such new Rules, Bye Laws, Orders, and Regulations, for the good Government of the said Proprietors, and for the good and orderly carrying on, completing, and maintaining of the said intended Canal, and of all such Warehouses, Wharfs, Passages, Locks, Tunnels, and all other Things that shall be made for or on Account of the same, and of and concerning all such Vessels, Goods, and Commodities as shall be navigated and conveyed thereon, and also for the well governing of the Bargemen, Watermen, and Boatmen who shall carry any Goods, Wares, or Merchandize upon any Part of such intended Canal, and from Time to Time to alter and repeal the said Bye Laws or 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, 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 Regulations, being put into Writing, and signed by the major Part of the Proprietors or Proxies who shall be present at the General Assembly at which such Rules, Bye Laws, and Regulations shall be made respectively, shall be binding to 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 the same be not repugnant to the Laws of this Realm, or to any of the Provisions or Directions contained in this Act.

When Proprietors die before Shares completed,

XXIV. And be it further enacted, That if any Owner or Owners of any Share or Shares in the said Undertaking, shall die before such Call or Calls shall have been made for the full Sum to be advanced on each Share which he, she, or they shall have been possessed of or entitled to, without having made Provision by Writing or otherwise how such Share or Shares shall be disposed of,

of, and the Money to be paid in upon Calls for the future, then, and in such Case, the Executors or Administrators of any such Owner so dying, and the Trustee or Trustees, Guardian or Guardians, of any Infant or Infants, or other Person or Persons whomsoever entitled to the Estate or Effects of such deceased Owner, shall be indemnified against all such Infant or Infants, or other Person or Persons whomsoever, for paying any Sum or Sums of Money, when called for as aforesaid, to complete any such Subscription, and if such deceased Owner shall not have left Assets sufficient, or in case the Executor, Administrator, Trustee, or Guardian of such deceased Owner shall refuse or neglect to answer such Calls and Payments, the said Proprietors shall be and are hereby impowered, authorized, and required to admit any other Person or Persons to be Proprietor or Proprietors of the Share or Shares of such deceased Owner, 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 Owner, or the Trustee or Trustees, Guardian or Guardians, of any Infant or Infants, or other Person or Persons entitled to his or her Effects, the full Sum and Sums of Money which shall have been paid by such Owner in his or her Lifetime, by virtue of any Call or Calls, or otherwise advanced upon such Share or Shares, and in Default of such Calls being answered and made good in Manner aforesaid, it shall be lawful for the said Proprietors to sell and dispose of the Share or Shares of such deceased Owner, and pay the Money arising by such Sale (after deducting the reasonable Charges occasioned thereby) to or for the Benefit of the Representative of such deceased Owner.

Executors, &c. may complete the same.

XXV. And be it further enacted, That it shall be lawful for the several Proprietors of such intended Canal to sell and dispose of any Share or Shares he, she, or they shall or may be entitled to in the said intended Canal, subject to the Rules and Conditions herein mentioned, and any Purchaser or Purchasers shall for his, her, or their Security or Securities, as well as that of such Proprietor or Proprietors, have a Duplicate or Duplicates of the Deed of Assignment or Conveyance made unto him, her, or them, and executed by such Person or Persons of whom he, she, or they shall purchase the same, and also by the Purchaser or Purchasers, One Part whereof, duly executed both by the Seller and Purchaser, shall be delivered to the said Committee, or to their Clerk for the Time being, to be filed and kept for the Use of the said Proprietors, and an Entry thereof shall be made in a

How Shares may be disposed of.

Book or Books to be kept by the said Clerk for that Purpose, for which no more than Two Shillings shall be paid, and the said Clerk is 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, and filed and entered as above directed, such Purchaser or Purchasers shall have no Part or Share of the Profits of the said intended Canal, or any Interest for the said Share paid to him, her, or them, or any Vote as Proprietor or Proprietors as aforesaid; and no Purchaser or Purchasers of any Share or Shares in the said Undertaking shall be entitled to vote at any General Meeting, unless it appears by the Register Book of the said Proprietors that he, she, or they have or hath been a Proprietor of such Share or Shares for at least Six Calendar Months before that Time, save and except such Person and Persons to whom Shares shall be granted as herein-before mentioned, who shall have a Right to Vote, and in every Respect to act, as soon as any Share or Shares shall be granted to him, her, or them; and also except such Proprietor or Proprietors who became so by Inheritance, Devise, or legal Representation, or as Trustee or Guardian as aforesaid, who shall have a Right to Vote, and in every Respect to act, so soon as their Claims and Rights thereto are made out and entered in the Register Book of the said Proprietors in Manner as aforesaid.

XXVI. And be it further enacted, That all and every Share and Shares to be sold and disposed of as aforesaid shall be assigned and transferred by Writing in the Form or to the Effect following:

Form of Transfer of Shares.

I *A. B.* of in Consideration of the Sum of paid to me by *C. D.* of do hereby bargain, sell, assign, and transfer unto the said *C. D.* his [*or* her] Executors, Administrators, and Assigns, Share [*or* Shares] in the *Nutbrook* Canal Navigation, being Number of the Shares in the said Navigation, to hold to him [*or* her] the said *C. D.* his [*or* her] Executors, Administrators, and Assigns, subject to the same Rules and Orders, and upon the same Conditions, that 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

Books to be kept for entering Pro-

XXVII. And be it further enacted, That the Clerk or Clerks so to be appointed shall, in proper Books to be provided

provided for that Purpose, enter and keep true and perfect Accounts of the Names and Places of Abode of the several Proprietors of the said intended Canal, and of the several Persons who shall from Time to Time become Owners and Proprietors of, or entitled to any Share or Shares, or to any Part of such Shares, of and in the said intended Canal, and of all other Acts, Proceedings, and Transactions of the said Proprietors, and of the Committees, by virtue of and under the Authority of this Act, and that each of the said Proprietors shall and may, at all convenient Times, have Recourse to, and peruse and inspect such Books gratis, and may demand and have Copies thereof, or any Part thereof, paying Three-pence for every One hundred Words so to be copied; and if the Clerk shall refuse to permit any such Proprietors to inspect such Books, or refuse to make Copies or Extracts thereof at the Rate or Times aforesaid, he shall forfeit and pay the Sum of Five Pounds for every such Offence. ceedings of the Proprietors.

XXVIII. And be it further enacted, That in Consideration of the Expence of making and maintaining the said intended Canal, and carrying this Act into Execution, it shall be lawful for the Proprietors of the said Canal for the Time being, from Time to Time, and at all Times hereafter, to ask, demand, take, and recover, to and for their own proper Use and Behoof, for the Tonnage, or for the Tonnage and Wharfage of all Coal, Coak, and other Things which shall be navigated, carried, or conveyed upon or through the said intended Canal, or upon any Part thereof, such Rates as they shall think proper, not exceeding the Sums herein-after specified; (that is to say), Rates.

For all Coal and Coak (except as herein-after mentioned) that shall be navigated upon the said intended Canal, and not carried into or navigated upon the said Erewash Canal, the Sum of Four-pence per Ton:

For all Coal that shall be got within and brought from the Lordships or Liberties of Shipley and Westhallam, or either of them, and navigated upon the said intended Canal, and also carried to and navigated upon the said Erewash Canal, the Sum of Eight-pence per Ton:

For all Coal that shall be got within and brought from the Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, or any of them, and navigated upon the said intended Canal, and also carried to and navigated upon the said Erewash Canal, the Sum of One Penny per Ton:

For

For all other Goods, Wares, Articles, Matters, and Things whatsoever (except as herein-after mentioned) that shall be navigated upon the said intended Canal, the Sum of Eight-pence per Ton.

Certain Exemptions allowed to Earl *Stanhope*.

XXIX. Provided always, and be it further enacted, That it shall and may be lawful to and for the said Charles Earl Stanhope, and the Owner or Owners of the Estate now belonging to the said Earl, in the said Parishes of Stanton by Dale, and Dale otherwise Dale Abbey, and his or their Tenants of the said Estate for the Time being, to navigate, carry, and convey upon the said intended Canal, free from the Payment of any Rates or Tonnages, any Iron Stone that shall be got within and brought from any of the said Lordships or Liberties of Shipley, Mapperley, Westhallam, Kirkhallam, Ilkeston, and Littlehallam, into, and used within the said Parishes of Stanton by Dale, and Dale otherwise Dale Abbey, or either of them; and also to navigate, carry, and convey, upon such Part of the said intended Canal as is or shall be within the Limits of the said Parish of Stanton by Dale, free from the Payment of any such Rates or Tonnages as aforesaid, any Iron that shall be made, and any Coal, Coak, and Iron Stone that shall be got within the said Parishes of Stanton by Dale, and Dale otherwise Dale Abbey, or either of them, or that shall be brought from and out of the said Erewash Canal, and also all other Goods, Wares, Articles, Matters, and Things whatsoever; and if any Person shall claim and take the Benefit of any of the Exemptions aforesaid, not being entitled thereto, such Person shall, for every such Offence, forfeit and pay the Sum of Five Pounds, to be recovered and applied as any Penalty or Forfeiture is by this Act directed to be recovered and applied.

Equalizing the Tonnage in certain Cases.

XXX. And, in order that the Coal which shall be got within any of the said Lordships or Liberties of Shipley, Westhallam, Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, may be taken to the same Markets at an equal Expence, or as nearly so as may be, be it further enacted, That if the Rate or Tonnage which Coal got within the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, or any of them, is liable to pay on being navigated upon the said Erewash Canal, shall be reduced to the Sum of One Shilling and Three-pence per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall and

they are hereby authorized and impowered, from the Time such Reduction shall take Place, to ask, demand, take, and receive for every Ton of Coal that shall be got within the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, or any of them, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Two-pence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of One Shilling and Two-pence per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take Place, to ask, demand, take, and receive, for every Ton of Coal that shall be got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Three-pence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of One Shilling and One Penny per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall, and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take place, to ask, demand, take, and receive, for every Ton of Coal that shall be got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Four-pence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of One Shilling per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall, and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take place, to ask, demand, take, and receive, for every Ton of Coal that shall be got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Five-pence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of Eleven-pence per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being, shall and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take place, to ask, demand, take, and receive, for every Ton of Coal that shall be got within

any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Sixpence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of Ten-pence per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall, and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take Place, to ask, demand, take, and receive, for every Ton of Coal that shall be got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Seven-pence; and if the same Rate or Tonnage upon the said Erewash Canal shall be reduced to the Sum of Nine-pence, or any lesser Sum per Ton, then, and in such Case, the Proprietors of the said intended Canal for the Time being shall, and they are hereby authorized and impowered, from the Time such last mentioned Reduction shall take Place, to ask, demand, take, and receive for every Ton of Coal that shall be got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the Sum of Eight-pence; and that in all Cases where the Rate or Tonnage to be paid for navigating Coal got within the said Lordships or Liberties of Shipley, Westhallam, Mapperley, Kirkhallam, Ilkeston, and Littlehallam, upon the said Erewash Canal, shall be equal, the Proprietors of the said intended Canal for the Time being shall, and they are hereby authorized and impowered to ask, demand, take, and receive for every Ton of Coal got within any of the said Lordships or Liberties of Mapperley, Kirkhallam, Ilkeston, and Littlehallam, and navigated upon the said intended Canal, and also upon the said Erewash Canal, the like Rate or Tonnage as they the said Proprietors shall then be entitled to receive for Coal got within the said Lordships or Liberties of Shipley and Westhallam, or either of them, on being navigated upon the said intended Canal, and also upon the said Erewash Canal: Provided always, That all such additional Rates or Tonnages as last mentioned shall be subject to an equal or proportionable Reduction as other Rates hereby directed to be taken on the said intended Canal, in case the same shall be reduced, in Manner herein-after mentioned.

XXXI. And

XXXI. And be it further enacted, That the Rates granted as aforesaid shall be paid to such Person or Persons, at such Place or Places near to the said intended Canal, in such Manner, and under such Regulations as the said Proprietors shall direct and appoint; and in case of Denial or Neglect of Payment of any such Rates on Demand, to the Person or Persons appointed to receive the same as aforesaid, the said Proprietors may sue for the same in the Name of their Treasurer, by Action of Debt, or upon the Case, in any Court of Record, or the Person or Persons to whom the said Rates ought to be paid, may and is and are hereby impowered to seize and distrain the Coal, Coak, or other Things for or in respect whereof such Rates ought to be paid, or any Part thereof, or the Boat or other Vessel laden therewith, and detain the same until Payment thereof, together with reasonable Charges for such Distress, and if such Distress shall not be redeemed within Five Days after the taking thereof, the same shall be appraised and sold, and the Money to arise by Sale thereof applied in Payment of the Rates, and all the Costs incurred, as the Law directs in Cases of Distress for Rent. Recovery of the Rates.

XXXII. And be it further enacted, That if any Coal, Coak, or other Thing which shall be so navigated, carried, or conveyed, shall remain upon any Wharf belonging to the Proprietors of the said intended Canal, for above the Space of Twenty-four Hours, then, and in such Case, the said Proprietors shall be entitled to receive such reasonable Allowance, over and above the Tonnage and Wharfage Rates herein-before authorized to be taken, as shall be agreed upon between the said Proprietors or their Agent, and the Owner of such Coal, Coak, or other Things, or in case of Dispute concerning such Allowance, the same shall be ascertained and adjusted by any Justice of the Peace for the said County of Derby; which Justice is hereby authorized and impowered, on Application of either Party, to ascertain and adjust the same, and his Determination thereon shall be final and conclusive. Further Allowance for Goods remaining upon a Wharf above 24 Hours.

XXXIII. Provided always, and be it further enacted, That the clear Profits to be received by the Proprietors of the said intended Canal from the said Navigation, 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 making and completing the said Navigation, and the several Works relating thereto, and in defraying the Charges and Expences of obtaining and passing this Act; and in order to ascertain the Amount of the Proprietors not to receive more than 8 *l. per Cent.*

the clear Profits of the said Navigation, the said Proprietors shall and 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 in or any ways relating to the making and completing the said intended Canal, and of all Charges and Expences which shall from Time to Time be incurred on Account of the said Navigation, and the several Works thereunto belonging, previous to and until the same shall be made and completed, and the said Proprietors shall and are hereby also required, from Michaelmas next after the Expiration of Two Years from the Time of completing the said intended Canal, to cause a true, exact, and particular Account to be kept, and annually made up and balanced to the Twenty-ninth Day of September, of the Rates collected or received by virtue of this Act, and of the Charges and Expences attending the supporting, maintaining, and using the said Navigation, and the several Works thereunto belonging, and 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 Navigation and other Works, and also every such Annual Account as aforesaid, shall be laid before the Justices of the Peace at their Epiphany Quarter Sessions 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 the said Navigation shall, upon the Average of Three Years then next preceding, have exceeded the Rate of Eight Pounds per Centum per Annum upon all such Money 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 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 Navigation 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, such Reduction to be made upon all the said Rates, in Proportion to the Amount thereof respectively as aforesaid, and it shall not be lawful for the said Proprietors 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 contained 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 Session 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 Witness upon Oath touching the said Accounts.

Proprietors to make the Fences, where *Nutbrook* shall hereafter not be a sufficient one, &c.

XXXIV. And whereas the said Brook or Stream called Nutbrook, near the Line of the said intended Canal, serves as a Fence between the Lands of different Persons, and so much of the Water thereof may be taken for supplying the said intended Canal as to render the said Brook or Stream an insufficient Fence; be it therefore further enacted, That in every Part of the said Brook or Stream, where by Means of taking the Water thereof for the Supply of the said intended Canal, the same shall become an insufficient Fence between any such Lands as aforesaid, the Proprietors of the said intended Canal shall and are hereby required, at their own Expence, to make a good and sufficient Fence between such Lands, and for ever afterwards to support and maintain the same in proper Repair and Condition, and in Default thereof for the Space of Three Months next after Notice in Writing for that Purpose, under the Hand of the Owner or Occupier of any such Lands, delivered to any Agent or Officer of the Proprietors of the said intended Canal, it shall be lawful for any such Owner or Occupier to cause the same to be done, and the Expence thereof shall be reimbursed to him by the Proprietors of the said intended Canal; and in case the said Proprietors shall not pay or reimburse to such Owner or Occupier the said Expences, upon Demand made by Writing under the Hand of such Owner or Occupier delivered to any of the said Proprietors, or any of their Agents or Officers, the same shall and may be levied by Distress and Sale of the Goods and Chattels of the said Proprietors, or of any of them, for the Time being, by Warrant under the Hand and Seal of any One Justice of the Peace for the said County of Derby, which Warrant any such Justice, after having summoned the Person on whom

the said Demand shall have been made, and satisfied himself of the Justness of such Demand, is hereby authorized and required to issue, or the said Expences shall and may be recovered by Action at Law in any of His Majesty's Courts of Record at Westminster.

Masters of Boats to give Account of Particulars of Lading.

XXXV. And, for the more easy collecting the said Rates, be it further enacted, That the Master, Owner, or Person having the Care of every Boat or other Vessel navigating upon the said intended Canal, shall give an exact and true Account in Writing, under his Hand, to the Collectors of the said Rates, at the Places where they shall attend for that Purpose, or to any Weigher to be appointed by the said Proprietors, of what Quantity of Coal, Coak, or other Things, shall be in or belonging to such Boat or Vessel, from whence brought, and where the same is intended to be landed; and in case the Coal, Coak, or other Things contained in any such Boat or Vessel, shall be liable to the Payment of different Rates, then such Master, Owner, or Person having the Care of such Boat or Vessel, shall specify the Quantity liable to the Payment of each of the said Rates; 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, or to any such Weigher demanding the same, or shall give a false Account, with Intent to avoid the Payment of the said Rates, he shall forfeit and pay the Sum of Ten Shillings a Ton for every Ton of Coal, Coak, or other Things, (and so in Proportion for any lesser Quantity than a Ton), which shall be in such Boat or other Vessel, of which such Account shall be so refused to be given, or of which such false Account shall be given, as the Case shall happen to be, and shall also be subject to the Payment of the said Rates herein-before granted and made payable for the same.

Vessels to be marked.

XXXVI. And, for preventing Disputes touching the Weight of Lading on Board any Boat or other Vessel passing upon the said intended Canal, be it further enacted, That correct Inderes in Copper or other Metal, or painted, shall be affixed on each Side of every such Boat or other Vessel, of such graduated Dimensions and Height, and under such Regulations, as the said Proprietors shall from Time to Time direct, so that the true Weight of the Lading on Board may at all Times be thereby ascertained, and the Names of the Owners of such Boats or other Vessels shall be affixed in Copper or other Metal, or painted, cut, or carved in large capital Letters, on each Side of such Boats or other Vessels, in a conspicuous Manner; and if the Master or Owner of any Boat or

other

other Veſſel ſhall navigate the ſame upon the ſaid intended Canal without having ſuch Inderes and Name thereon, or ſhall deface or deſtroy any ſuch Inder or Name, or any Part thereof, he ſhall forfeit and pay the Sum of Five Pounds for every ſuch Offence:

120 Pounds to be deemed a Hundred Weight, &c.

XXXVII. And be it further enacted, That One hundred and twenty Pounds Weight Avoirdupois ſhall be deemed and taken as and for One hundred Pounds Weight, within the Intent and Meaning of this Act, and that Fifty Feet of round, and Forty Feet of ſquare Oak, Aſh, or Elm Timber, and Fifty Feet of Fir, Deal Balk, Poplar, Beech, or Birch, not cut into Scantlings, ſhall be deemed, rated, and eſtimated as and for One Ton Weight:

How Diſputes about Tonnage are to be ſettled.

XXXVIII. And be it further enacted, That if any Difference ſhall ariſe between any Collector of the ſaid Rates, or between any Weigher to be appointed as aforeſaid, and the Maſter or other Perſon having Charge of any Boat or other Veſſel, or the Owner of any Coal, Coak, or other Things, concerning the Weight or Quantity of the ſame, or concerning the aforeſaid Inderes or Figures denoting the Tonnage of ſuch Boat or other Veſſel, it ſhall be lawful for any ſuch Collector or Weigher to ſtop and detain any ſuch Boat or other Veſſel, and to weigh, meaſure, gauge, or cauſe to be weighed, meaſured, or gauged, all ſuch Coal, Coak, or 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 other Perſon giving in ſuch Account, ſhall pay the Coſts and Charges of ſuch meaſuring, weighing, or gauging, to be recovered by ſuch Ways and Means, and in ſuch Manner, as the ſaid Rates can or may be recovered; but if ſuch Coal, Coak, or other Things 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 or Weigher ſhall pay the Coſts and Charges of ſuch weighing, meaſuring, or gauging, and ſhall alſo pay to ſuch Maſter or other Perſon, or to the Owner or Owners of ſuch Coal, Coak, or other Things, ſuch Damages as ſhall appear to the Juſtices at any ſuch Quarter Seſſion as aforeſaid, upon the Oath of any credible Witneſs, to have ariſen from ſuch Detention, and in Default of immediate Payment thereof, the ſame ſhall be recovered from the ſaid Proprietors of the ſaid intended Canal in like Manner as any Penalty is by this Act directed to be recovered.

Navigation to be free upon Payment of the Rates.

XXXIX. And be it further enacted, That all Perſons whomſoever ſhall have free Liberty to navigate upon the ſaid

said intended Canal with any such Boats or other Vessels as the Locks thereon will permit (such Boats or other Vessels carrying less than Ten Tons Burthen not passing any Lock except when the Water flows over the Waste Weir of such Lock), and to use the said Wharfs and Quays for the loading and unloading any Coal, Coak, and other Things, and the said Towing Path for the haling and drawing such Boats and other Vessels, upon Payment of the Rates herein-before granted, and subject to such Rules and Regulations as shall from Time to Time be made by the said Proprietors for the navigating upon the said intended Canal, and the using the said Wharfs, Quays, and Towing Path: Provided nevertheless, that no such Rules or Regulations shall be in Force until the same shall have been published Three Times in the Derby Newspaper, and painted on a Board, and fixed by the Side of the said intended Canal, between the lowest Lock thereon and the said Erewash Canal, which shall be continued so affixed in order that all Persons using the said Navigation may have an Opportunity of inspecting the same.

In Default of Payment of Purchase Money for Lands taken, Owners of Lands may lock up Canal.

XL. Provided also, That in case the Purchase Money for any Land to be purchased as aforesaid, or any Annual Payment for any Land to be used for any of the Purposes aforesaid, shall not have been paid or tendered by the Proprietors of the said intended Canal for the Time being, to the Person or Persons entitled to receive the same, within the Times and in Manner stipulated for such Payments respectively, it shall be lawful for such Person or Persons to whom such Payments shall be due and payable, when and so often as any such Payments shall be so due, or in Arrear and unpaid, to lock up all or any of the Gates upon the said intended Canal, or the Towing Path thereof (except the Gates within the said Parish of Stanton by Dale) at his, her, or their Will and Pleasure, until such Payment shall be fully made and satisfied by the Proprietors of the said intended Canal for the Time being.

Towing Path to be fenced, and Bridges made.

XLI. And be it further enacted, That the said Proprietors shall, and they are hereby required, at their own proper Costs and Charges, after any Land shall be taken for the Purpose of making the said intended Canal and Towing Path, to divide and separate, and keep constantly divided and separated, the Towing Path on the Side of the said intended Canal, and the Trenches or Passages hereby authorized to be made, or such Parts of such Trenches or Passages as Occasion shall require, from the Lands or Grounds adjoining to such Towing Path,

Path, Trenches, or Passages, with good and sufficient Posts, Rails, Hedges, Ditches, or other Fences, and shall, at their own Costs and Charges, from Time to Time maintain and support the said Towing Path, and the said Posts, Rails, Hedges, Ditches, and other Fences so made as aforesaid; and the said Proprietors shall also at their own Charges make, erect, and set up, and from Time to Time maintain and support, proper and convenient Gates and Stiles in and through the Hedges and Fences to be by them so made on the Side of such Towing Path as aforesaid, and also proper Bridges, Arches, Culverts, Drains, and Passages, over, under, by the Side of, or into the said intended Canal, and the Trenches or Aqueducts communicating therewith, and the Towing Path on the Side thereof; and the said Proprietors shall not make the said intended Canal, or any Trench, in or across any Common Highway, publick Bridle Way, or Foot Path, until they shall, at their own Charges, have made and perfected proper and sufficient Bridges, Passages, or Arches across such Highway, Bridle Way, or Path; and all such Gates, Stiles, Bridges, Arches, and other Works and Conveniences to be made, shall from Time to Time be supported, maintained, and kept in sufficient Repair by the said Proprietors.

In case Proprietors do not fence off the Towing Path, &c. Land Owners may do it at the Proprietors Expence.

XLII. And be it further enacted, That in case the said Proprietors shall refuse or neglect to cause to be divided and separated, and to be kept divided and separated, the Towing Path in Manner herein-before directed, or to make, erect, and set up such Gates and Stiles in and through the Fences on the Side of the said Towing Path, or such Bridges, Arches, Tunnels, Culverts, Drains, Back Drains, or other Passages, over, under, or by the Side of, or into the said intended Canal, and the said Trenches as aforesaid, or to repair, maintain, and support the same, for the Space of Six Calendar Months next after Notice shall be given to them, or any Agent or Officer of their's, by or on the Behalf of the Owners or Occupiers of any Lands, Grounds, or Hereditaments, who shall find themselves aggrieved by any such Refusal or Neglect, it shall be lawful for any such Owners or Occupiers to make, erect, and set up all such Gates, Stiles, Bridges, Passages, Arches, Culverts, Watering Places, and other Conveniences as aforesaid, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that in making and maintaining the Works aforesaid, the said intended Canal, or the Banks thereof, or the Aqueducts belonging thereto, shall not be stopped or injured for any

any longer Space of Time, or in any other Manner than is absolutely necessary for the doing thereof, and all the reasonable Expences thereof, together with the Costs and Charges attending the same, to be settled and allowed by the Justices at any such Quarter Sessions as aforesaid, shall be repaid to such respective Owners or Occupiers as aforesaid by the said Proprietors, 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, any Justice of the Peace for the said County shall and is hereby required, by Warrant under his Hand and Seal, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the said Proprietors, or of any of them, and to be paid to such respective Owners or Occupiers as aforesaid, rendering to the said Proprietors, or such of them whose Goods and Chattels shall be so distrained and sold, the Overplus (if any) after deducting the reasonable Charges of making such Distress and Sale, or otherwise such Owners and Occupiers respectively shall and may sue for and recover the same against the said Proprietors, or any of them, by Action of Debt, or on the Case, in any of His Majesty's Courts of Record at Westminster.

Proprietors enabled to cleanse the adjoining Watercourse at the Land Owner's Expence.

XLIII. And be it further enacted, That in case the Ditches and Drains belonging to any Owner or Occupier of the Lands adjoining, or lying contiguous to the said intended Canal, shall not be sufficiently open for the free Passage of the Water from the Drains, Weirs, Culverts, and Passages belonging to the said intended Canal, and the same shall not be remedied within Thirty Days after Notice for that Purpose given to such Owner or Occupier, by or on Behalf of the said Proprietors, it shall be lawful for the said Proprietors, having an Order in Writing for that Purpose from any Two Justices of the Peace for the said County, as often as there shall be Occasion, to order and procure to be opened and cleansed the said Ditches and Drains as aforesaid, and the reasonable Expence thereof, to be ascertained and allowed by the Justices at any Quarter Sessions of the Peace for the said County, shall be repaid the said Proprietors by such Owner or Occupier, and in case of Refusal to satisfy the same for the Space of Three Calendar Months after Demand made thereof, the same shall and may be recovered in such Manner as any Penalties are by this Act directed to be recovered.

Proprietors to make Watering Places for

XLIV. Provided always, and be it further enacted, That if by means of making or using the said intended

Canal, the Occupiers of any of the Lands or Grounds adjacent or near thereunto shall be deprived of any of the usual Watering Places for their Cattle, then, and in such Case, the said Proprietors shall, at their own Costs and Charges, set out and provide proper and convenient Ponds or Places in the Lands or Grounds adjacent or near unto the said intended Canal, and shall supply the same with Water for the Cattle to drink out of, in every such Ground, in lieu and instead of the Watering Places where they were theretofore accustomed to drink and water at as aforesaid, and in case the said Proprietors shall neglect or refuse to provide, set out, and make any such Ponds or Watering Places, and supply the same with Water, for the Space of Three Calendar Months next after Notice shall be given to them, or any Agent or Officer of their's, by or on Behalf of the Owners or Occupiers of any Lands or Grounds who shall be deprived of their usual Watering Places as aforesaid, it shall be lawful for any such Owners or Occupiers to provide, set out, and make such Ponds or Watering Places, and supply the same with Water as aforesaid, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that the said intended Canal, or the Banks thereof, or the Aqueducts belonging thereto, shall not be injured in any other Manner than is absolutely necessary for the doing thereof, and all the Costs and Expences attending the same, to be settled and allowed by any Two Justices of the Peace for the said County of Derby, shall be repaid to such respective Owners or Occupiers as aforesaid by the said Proprietors, and in case of Neglect or Refusal to pay the said Costs and Expences, for the Space of One Calendar Month after the same shall have been settled and allowed, and an Account and Demand shall have been delivered and made thereof, the same shall and may be recovered in such Manner as any Penalties are by this Act directed to be recovered.

Cattle, if they take the Water from the usual Places.

XLV. And be it further enacted, That it shall be lawful for the Owners of any Lands or Grounds through which the said intended Canal shall be made, to make Side Cuts from the said Canal, either upon an equal Level with, or upon a higher Level than the said Canal, at the Place where any such Side Cut shall join the said Canal, and to supply such Side Cuts with Water from any Brooks, Streams, Springs, and Watercourses which shall be within or upon any Lands belonging to such Owners respectively, any Thing herein contained to the contrary thereof in anywise notwithstanding:

Liberty to Owners of Lands to make Side Cuts.

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Provided nevertheless, That such Owners of Lands do not, in the doing or upholding of any of the Matters aforesaid, injure in any Manner the said Canal, or the Navigation thereof.

Masters of Vessels answerable for any Damages done by the Boatmen.

XLVI. And be it further enacted, That the Master or Owner of every Boat or other Vessel navigating upon the said intended Canal, shall be and is hereby made answerable for any Damage, Spoil, or Mischief that shall be done by his Boat or other Vessel, or any of the Boatmen or Watermen belonging to or employed in or about the same respectively, unto any of the Bridges, Weirs, Locks, Banks, or other Works, in, upon, or near to the said intended Canal, or the Trenches, Aqueducts, Sluices, and Passages belonging thereto, or by loading or unloading any Boat or other Vessel, and for any Trespass or Damage that shall or may be done to the Owners or Proprietors of any Buildings or Lands adjoining to the same, or any of them, and the said Master or Owner of such Boat or other Vessel shall and may be sued and prosecuted for the same in any Court of Record.

Vessels lying so as to obstruct the Navigation to be removed.

XLVII. And be it further enacted, That if any Boat or Vessel shall be placed or suffered to lie or remain in any Part of the said intended Canal so as to obstruct the Navigation thereof, and the Person having the Care of such Boat or Vessel shall not immediately, upon Request made, remove such Boat or other Vessel, he shall for every such Offence forfeit any Sum not exceeding Ten Shillings for every Hour such Obstruction shall continue; and it shall be lawful for any Agent or Officer to the said Proprietors to cause such Boat or 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 or other Vessel, and the Loading thereof, or any Part of such Loading, until the Charges occasioned by such Removal are paid; and if any Boat or Vessel shall be sunk in the said intended Canal, and the Owner or Owners, or Person or Persons having the Care of such Boat or Vessel, shall not forthwith weigh or draw up the same, it shall be lawful for any Agent or Officer to the said Proprietors to cause such Boat or Vessel to be weighed or drawn up, and to detain and keep the same until Payment be made of all the Expences necessarily occasioned thereby.

Vessels sunk to be weighed up.

Penalty on Persons overloading and obstructing the Navigation;

XLVIII. And be it further enacted, That if any Person or Persons shall float any Timber upon the said intended Canal, or shall suffer the Loading of any Boat or Vessel

to

to lie over the Sides of any such Boat or Vessel, or shall overload any Boat or Vessel navigating in or upon the said intended Canal, so as to obstruct the Passage of any other Boat or Vessel, and shall not immediately, upon Notice given to the Owner or Person having the Care of such Boat or Vessel so obstructing the Passage as aforesaid, remove such Obstruction, every such Owner or Person floating such Timber, or having the Care of such Boat or Vessel, shall forfeit and pay, for every such Offence, any Sum not exceeding Five Pounds; and if any Person shall throw any Gravel, Stone, or Rubbish into any Part of the said intended Canal, or any Trenches or Watercourses to be made by virtue of this Act, every such Person shall forfeit and pay any Sum not exceeding Forty Shillings for every such Offence.

and opening Locks, or doing other Damage to the Navigation.

XLIX. And be it further enacted, That 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, or suffer any Boat or other Vessel to strike or 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 shall leave any of the said Valves or Cloughs open and running after any Boat or other Vessel shall have passed any such Lock, or shall wilfully or maliciously do any other Act to the Prejudice of the said Navigation, every Person so offending shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence.

How Proprietors are to be taxed for Lands.

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

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

LI. And be it further enacted, That the said intended Canal, or any Works to be made by virtue of this Act, shall not be subject to the Controul, Direction, Survey, or Order of any Commission of Sewers, or to any Law or Statute relating to Sewers, any Thing in any former Law or Statute to the contrary notwithstanding.

Owners of Estates may make Wharfs, &c.

LII. And be it further enacted, That the Owner or Owners of any Lands or Grounds near to, through,

over, or by which the said intended Canal shall be made, may erect and use any Wharfs, Quays, Landing Places, Cranes, Weigh Beams, or Warehouses, in or upon their respective Lands or Grounds adjoining or near to the said intended Canal, 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, 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 Proprietors of the said intended Canal, so that the making and using thereof do not obstruct or prejudice the Navigation and Business of the said Canal; and that all Rates 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 Owner or Owners of such Lands or Grounds, who shall make and erect the same as aforesaid.

If Owners of Estates neglect, the Proprietors may make Wharfs, &c.

LIII. And be it further enacted, That if any such 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 Proprietors of the said intended Canal, that any Part of such Lands or Grounds 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 or laying out necessary and convenient Roads for the Conveyance of Goods to and from the said intended Canal, 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 Proprietors 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 Proprietors shall have full Power and Authority, without any Hindrance or Restraint whatsoever, to make use of such Lands or Grounds 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, agreeably to such Notice as aforesaid, first making Satisfaction for the same, in such Manner as is herein-before directed with

with respect to any other Lands or Grounds which shall be taken or used by the said Proprietors for the Purposes of this Act: Provided always, that the Proprietors of the said intended Canal shall not make any such Wharfs, Quays, Landing Places, Warehouses, or Buildings (except such as shall be necessary to be made at the Mouth of the said intended Canal, within the said Parish of Stanton by Dale) until such Notice as aforesaid shall have been given to the Owner or Owners of such Lands or Grounds, and he, she, or they shall neglect to make the same as aforesaid.

Regulations respecting private Wharfs.

LIV. And be it further enacted, That this Act shall not authorize or impower the Proprietors of the said intended Canal, 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 Owner or Owners of any Lands or Grounds adjoining or near to the said intended Canal, for his, her, or their own Use, and the Use of his, her, or their Tenants, 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 Owner or Owners, and that no more than the Sum of One Penny a Ton shall be demanded or taken by any such 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, in pursuance of the Notice to be given by or on the Behalf of the said Proprietors to such 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, nor 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:

Days: Provided also, that it shall be lawful for the said Proprietors 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 Owners 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 or by the Order of the said Proprietors, or when so erected neglect or refuse to keep the same in Repair.

Land Owners may use Pleasure Boats.

LV. And be it further enacted, That it shall be lawful for the Owners or Occupiers of any Lands adjoining to the said intended Canal to use any Pleasure Boat or Boats upon the said Canal, (not passing through any Locks, unless they shall first pay Tonnage equal to a Boat or Vessel carrying Ten Tons, or obtain the Consent of the Proprietors of the said Canal, or unless there shall be Water running over the Waste Weir of such Locks), without any Interruption from the said Proprietors, and without paying any Rate for the same, so as such Boat or Boats 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, or the Towing Paths on the Sides thereof.

Compensation to be made for Tithes.

LVI. And be it further enacted, That full Recompence and Satisfaction shall be made by the Proprietors of the said intended Canal for all the Tythes, 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 Tythes, according to their respective Interests therein, such Tythes 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 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.

Earl *Stanhope* may take Water out of the Canal.

LVII. And be it further enacted, That it shall and may be lawful to and for the said Charles Earl Stanhope, and the Owner or Owners of the Estate now belonging to the said Earl in the said Parishes of Stanton by Dale and Dale otherwise Dale Abbey, and his and their Tenants

nants of the said Estate for the Time being, (such Tenant or Tenants being duly authorized so to do by the said Earl, or the Owner or Owners of the said Estate for the Time being), at any Time or Times when the Water shall flow over the Waste Weir next above the Lock to be made upon the said intended Canal within the said Parish of Stanton by Dale, to take any Water out of the said intended Canal at any Place or Places within the said Parish of Stanton by Dale, for the Purpose of flowing the Lands there, or for any other Purpose whatsoever, without returning any such Water into the said Canal: Provided always, That by taking the Water out of the said intended Canal as aforesaid the Navigation thereof be not in anywise hindered, impeded, or injured.

Rights of Lords of Manors and Land Owners to Fishery reserved.

LVIII. Provided always, and be it further enacted and declared, That the Lord of every Manor through which the said intended Canal shall be made, shall have and be entitled to the Right of Fishery of and in so much of the said intended Canal, Reservoirs, Trenches, and Sluices as shall be made over or through the Common or Waste Lands within his Manor, and also in and over, or through any other Lands lying within such Manor, wherein such Lord now hath or is entitled to the Right of Fishery in the Ponds and Waters now being in such Lands, and that the respective Owners of all other Lands through which the said intended Canal shall be made (except as herein-after mentioned respecting the said Brook called Nutbrook), shall also have and be entitled to the Right of Fishery of and in so much of the said intended Canal, Reservoirs, Trenches, and Sluices as shall be made in, over, or through their Lands respectively; and also that the Right of the Lord of every Manor, and of every Land Owner or other Person of, in, or to the Fishery of the said Brook, shall remain in the same Manner as before the passing of this Act, or would have done if this Act had not been made; and that the Right of Fishery in any Part of the said intended Canal, where the same shall deviate from the Course of the said Brook, shall be the Property of the respective Persons entitled to the Right of Fishery in the Parts of the said Brook between the Commencement and Termination of such Deviations respectively, according and in Proportion to their respective Rights of Fishery in the Parts of the said Brook between the Commencement and Termination of such Deviations respectively, so as in the Use and Exercise of the said Right of Fishery, the said intended Canal, Reservoirs, Trenches, and Sluices, and the Towing Path, Banks,

or other Works and Conveniences hereby authorized to be made, shall not be prejudiced or obstructed, nor any Water drained or exhausted from or out of the said intended Canal, Reservoirs, Trenches, or Sluices; but the said Proprietors, their Agents or Workmen, shall not be liable to any Penalty, Action, or Prosecution, for or by reason of the taking or destroying of any Fish in the said intended Canal, Reservoirs, Trenches, or Sluices, which shall be taken, killed, or destroyed through or by means of the letting off the Water out of the said intended Canal, Reservoirs, Trenches, or Sluices, for or upon Account of any Repairs or Works to be done in or about the same: Provided always, That nothing herein contained shall extend, or be construed to extend, to deprive the respective Owners of the Fisheries of the said Brook called Nutbrook of Recompence and Indemnification for any Detriment they may receive with respect to their Rights of Fishery from any Cause or Causes proceeding from the making, maintaining, or using the said intended Canal, but the Damages they may sustain, and the Satisfaction and Recompence in respect thereof, shall be settled and determined by the Ways and Means herein-before prescribed with respect to the other Damages, by making and completing the said Canal.

Power to compel Payment of Subscriptions.

LIX. And be it further enacted, That the several Persons to whom any Share or Shares in the said Navigation shall be granted and assigned as herein-before mentioned, to raise Money for and towards making and maintaining the said intended Canal, shall and are hereby required to pay the Sum or Sums of Money which they shall be thereby made liable to advance, according to the Amount of such Share or Shares, or such Parts or Proportions thereof as shall from Time to Time be called for by virtue of this Act; and in case any such Person shall neglect or refuse to pay the said Monies, or the Parts or Proportions thereof so called for, at the Time and in Manner required for that Purpose in pursuance of this Act, it shall be lawful for the said Proprietors of the said Navigation to sue for and recover the same, in the Name of their Treasurer or Clerk, in any of His Majesty's Courts of Record at Westminster.

Recovery and Application of Forfeitures.

LX. And be it further enacted, That all Penalties or Forfeitures for Offences against this Act, or any Rule, Bye Law, or Regulation to be made as aforesaid, shall, upon Proof of the Offences respectively before any Justice of the Peace for the County of Derby, either by the Confession of the Party, or by the Oath of any credible Witness, be levied and recovered by Distress and Sale

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of the Goods and Chattels of the Party offending, by Warrant under the Hand and Seal of such Justice (which Warrant such Justice is hereby impowered to grant), and the Overplus, after such Penalties and Forfeitures, and the Charges of such Distress and Sale, are recovered and deducted, shall be returned, upon Demand, to the Owner of such Goods and Chattels; and in case sufficient Distress cannot be found, or such Penalties and Forfeitures shall not be forthwith paid, it shall be lawful for any such Justice, by Warrant under his Hand and Seal, to cause such Offender to be committed to the Common Gaol or Prison, there to remain, without Bail or Mainprize, for any Time not exceeding Three Calendar Months, unless such Penalties or Forfeitures, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied; and all such Penalties and Forfeitures (if not herein-before directed to be otherwise applied) shall go and belong to the said Proprietors.

LXI. And 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 in the Form, or to the Effect following:

Form of Conviction.

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

Appeal to General Quarter Sessions.

LXII. Provided always, and be it further enacted, That any Person or Persons thinking himself, herself, or themselves aggrieved by the Order or Determination of any Justice of the Peace, may, within Six Calendar Months after such Order or Determination shall have been made or given, complain to the Justices of the Peace at the General Quarter Sessions to be holden in and for the County of Derby, who shall, in a summary Way, either hear and determine the said Complaint at such Sessions, or if they think proper may adjourn the Hearing

Hearing thereof to the next General Quarter Sessions of the Peace to be holden for the said County of Derby; and if they see Cause may mitigate any Penalty or Forfeiture, and may order any Money to be returned, which shall have been levied in pursuance of such Order and Determination, and may also order such further Satisfaction to be made to the Party injured as they shall judge reasonable.

Limitation of Actions.

LXIII. 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 of this Act, the same shall be brought or commenced within Twelve Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damage, then within Twelve Calendar Months next after the doing or committing such Damage shall cease, and not afterwards, and shall be laid and brought in the County of Derby, and not elsewhere; and the Defendant or Defendants in such Action or Suit shall and may plead

General Issue.

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 in any other Court or Place than as aforesaid, then 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

Treble Costs.

or Defendants shall have Treble Costs, and shall have such Remedy for the same as any Defendant hath for Costs of Suit in any other Cause by Law.

Publick Act.

LXIV. And be it further enacted, That this Act shall be deemed and taken to be 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.

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