Anno nono

Georgii III. Regis.

An Act to rectify a Miſtake in an Act paſſed in the Eighth Year of His preſent Majeſty, intituled, *An Act for making and maintaining a navigable Cut or Canal, from* Birmingham *to* Bilſtone, *and from thence to* Autherley, *there to communicate with the Canal now making between the Rivers* Severn *and* Trent; *and for making collateral Cuts up to ſeveral Coal Mines*; and to explain and amend the ſaid Act.

WHEREAS by an Act made in the Eighth Year of the Reign of His preſent Majeſty, (intituled, An Act for making and maintaining a navigable Cut or Canal from *Birmingham* to *Bilſtone*, and from thence to *Autherley*, there communicate with the Canal now making between the Rivers *Severn* and *Trent*; and for making collateral Cuts up to ſeveral Coal Mines) certain P Preamble, reciting Act 8 Geo. III.

sons therein mentioned and described, are united into one Body Politic and Corporate, by the Name of The Company of Proprietors of the *Birmingham* Canal Navigation; and the said Company of Proprietors, their Successors, and Assigns, are thereby impowered to make a navigable Cut or Canal from Birmingham to or near Smethwick, Oldbury, Tipton Green, and Bilstone, therein described to be in the respective Counties of Warwick and Stafford: And whereas the Village of Oldbury aforesaid, together with some small Tracks of Land within the Description of the said Act, and through which the intended Navigation must necessarily pass, have since been discovered to be situate within a detached Part of the County of Salop: And whereas the rectifying of the said Mistake, and the extending the Powers and Provisions of the said Act into such Part of the said County of Salop, cannot be effected without the Aid and Authority of Parliament: May it therefore please your Majesty, that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all and every the Powers, Authorities, Directions, Provisions, Penalties, Forfeitures, Clauses, Matters, and Things, which in and by the said Act are given, provided, declared, settled, imposed, and created (and not altered by this present Act) for making the said navigable Canal and Cuts, and for continuing the said Canal as aforesaid, shall, from and immediately after passing this Act, be used, exercised, practised, imposed, levied, recovered, and put in Execution, within such Part of the said County of Salop, (in which the said Village of Oldbury and the small Tracks of Land aforesaid are situate) as fully and effectually, to all Intents and Purposes, as if the said County of Salop had been mentioned in the said recited Act, or as if all and every the said Powers, Authorities, Directions, Provisions, Penalties, Forfeitures, Clauses, Matters, and Things, were herein particularly repeated, re-enacted, and extended to the Village of Oldbury, in the said County of Salop; any thing in the said Act contained to the contrary notwithstanding.

Extension of the Powers of the former Act to this Act.

And

And be it further enacted, That the Right Honourable Lord Clive; the Honourable Edward Clive, Sir John Aſtley Baronet, Edward Acton, Sir Henry Bridgman, John Bright, Thomas Beale, Francis Turner Blythe, Samuel Beynyon, Charles Bolas, Richard Baldwyn, Charles Baldwyn, Edward Botterell, Lancelot Baugh, Jonathan Bowen, Thomas Bradburne Clerk, the Bailiff and capital Burgeſſes and Town Clerk of Bridgnorth, for the time being; Sir Richard Corbett, Sir Francis Charlton, Baronets; Richard Clive, George Clive, William Clive, William Congreve, Robert Clive Clerk, John Corbett, John Carnac, Somerſet Davies, William Dunn of Broadway, George Durant, Sir Thomas Edwards Baronet, William Fellows, Edward Herbert, Thomas Herbert, Noel Hill, Thomas Home, William Hedges, Charles Gardner Humphrys, Thomas Highway, Evan Humphrys, Haden of Hadenhall, Honeybourne, Thomas Knight, James Knight, Sir Charlton Leighton, Charlton Leighton, Baldwyn Leighton, Edward Lloyd, James Maſon ſenior, James Maſon junior, John Oliver ſenior, John Oliver junior, William Pearcehall, Thomas Powys, Henry Powis, Morrice Price, Joſeph Plymley, William Plymley, Robert Pemberton, the Mayor, Recorder, Aldermen, Steward, and Town Clerk of Shrewſbury, for the time being; Joſeph Powell ſenior, Joſeph Powell junior, Price Thomas, Smith of Ridge Acre, Thomas Townſend, Joſeph Wakeman, Charles Whitehall, (being duly qualified as the Commiſſioners appointed by the ſaid Act are thereby required to be qualified, and taking and ſubſcribing the Oath thereby preſcribed to be taken by ſuch Commiſſioners) ſhall be, and they and their Succeſſors (to be elected in Manner as by the ſaid Act is preſcribed for the Election of new Commiſſioners) are hereby appointed Commiſſioners for carrying the Purpoſes of the ſaid Act into Execution within ſuch Part of the County of Salop aforeſaid, and ſhall have the like Power and Authority as well for the determining of Differences, ſettling of Recompences, and ſummoning of Juries, as in all other Things relating to the Execution of the ſaid Act, within ſuch Part of the County of Salop aforeſaid as by the ſaid Act is veſted in the Commiſſioners therein expreſsly named and appointed in reſpect to the Counties therein mentioned, and ſhall alſo be ſubject to the like Proviſoes, Regulations, Reſtrictions, Trustees Names.

Restrictions, Disabilities, and Penalties, as the Commissioners therein named and appointed are subject and made liable to.

Power of making Reservoirs, extended.

And whereas it is apprehended that the making of Reservoirs for the Purposes of the said Canal and Cuts is confined to the Distance of One thousand Yards in the said Act mentioned, which Restriction would frustrate the good Purposes thereby intended; be it therefore further enacted, That it shall and may be lawful to and for the said Company of Proprietors, their Successors, and Assigns, by all proper and convenient Ways and Means, to make such Reservoirs as shall be necessary for the Purposes of the said Canal and Cuts, for the more convenient supplying the same respectively with Water, at any Distance within Three Miles from that Part of the said Cut or Canal lying between the two extreme Locks, constructed or intended to be constructed between the Villages of Smethwick and Oldbury; and also within the Distance aforesaid from that Part of the said Canal lying between the two extreme Locks, intended to be constructed between the Town of Bilstone and the Communication with the Canal now making between the Rivers Severn and Trent: And in case in the Execution of the Powers hereby granted for making of Reservoirs within the Distance and Spaces aforesaid, or in bringing of Water to the said intended Canal and Cuts from any Springs, Brooks, Streams, and Watercourses, as are or shall be found within the Distance of One thousand Yards therefrom respectively, for the more convenient supplying the same with Water, in pursuance of the Powers in the said former Act mentioned, it may be found necessary to enter upon, bore, dig, sough, trench, or cut, any Lands or Grounds lying and being within the County of Worcester; in such Case or Cases respectively the said Company of Proprietors, their Successors, and Assigns, may, and they are hereby authorized and impowered to enter upon, bore, dig, sough, trench, or cut, such Part of such Lands and Grounds, lying in the said County of Worcester, as may be necessary for the Purposes aforesaid, and for perfecting and maintaining the said Navigation, as fully and effectually, to all Intents and Purposes whatsoever, as the said Proprietors might or could do in the Counties in the said former and this present Act particularly named and expressed;

preſſed; and that the Commiſſioners, in the ſaid former and this preſent Act named and appointed, for carrying the Purpoſes of the ſame into Execution, ſhall have the like Powers and Authorities, as well for the determining of Differences, ſettling of Recompences, and ſummoning of Juries, as in all other Things relating to the Execution of the ſaid Act, within ſuch Part of the County of Worceſter, for the Purpoſes aforeſaid, as by the ſaid former Act is veſted in the Commiſſioners therein expreſſly named and appointed, in reſpect to the Counties therein mentioned; and ſhall alſo be ſubject to the like Proviſoes, Regulations, Reſtrictions, Diſabilities, and Penalties, as the Commiſſioners therein named and appointed are ſubject and made liable to.

And whereas the ſaid Company of Proprietors, their Succeſſors, and Aſſigns, are by the ſaid Act enabled to raiſe among themſelves a Sum of Money, not exceeding in the Whole Fifty five thouſand Pounds, except as thereafter mentioned, for making and completing the ſaid Navigation, which is thereby directed to be divided into Five hundred and fifty equal Parts or Shares, at a Price not exceeding One hundred Pounds per Share; which ſaid Five hundred and fifty Shares are thereby veſted in the ſaid ſeveral Subſcribers, and their ſeveral and reſpective Heirs and Aſſigns, in Manner therein mentioned: And whereas the Sum of Fifty thouſand Pounds only has been raiſed for the Purpoſes of the ſaid Act, and it is apprehended that the dividing the ſame into Five hundred and fifty Shares, and the making of the ſaid Shares to be of the Nature of a Real Eſtate, may prove inconvenient; be it therefore further enacted, That from and immediately after the paſſing of this Act, the ſaid Sum of Fifty thouſand Pounds ſo raiſed or ſubſcribed to be raiſed, and all ſuch further Sum or Sums as ſhall be raiſed by virtue of the ſaid recited Act, and of this preſent Act, for the making and completing of the ſaid Navigation, and alſo the Profits thereof reſpectively, ſhall be divided into Five hundred, inſtead of Five hundred and fifty Shares; which ſaid Shares ſhall be, and the ſame are hereby veſted in the ſeveral Perſons in the ſaid Act named, and their ſeveral and reſpective Executors, Adminiſtrators, and Aſſigns, to their and every of their proper Uſe and Behoof, proportionably to the Sum they and each

Altering the Shares from 550 to 500, and deeming the ſame Perſonal Property.

each of them have severally subscribed and paid, or shall pay thereunto; and that all and every the Shares of the said Navigation, as well those which have been already sold and transferred, as also all other Shares now remaining unsold, or which shall be hereafter sold and transferred, shall be deemed to be Personal Property, and transmissible as such, and not of the Nature of Real Estate.

Power given to the Proprietors to raise a Sum among themselves, sufficient to carry on the Purposes of this Act.

Provided always, and be it further enacted, That nothing in this present Act contained shall extend or be construed to extend to prevent or hinder the said Company of Proprietors, their Successors or Assigns, from raising and contributing among themselves the Sum of Fifty five thousand Pounds upon the Contingency of Fifty thousand Pounds being insufficient for the making, compleating, and maintaining, the said Navigable Cut or Canal, and collateral Cuts, and other the Works thereunto belonging, and the necessary Charges relating thereto, according to the Powers of the said former Act; but on the contrary, that it shall and may be lawful to and for the said Company of Proprietors, their Successors and Assigns, not only to raise and contribute as aforesaid the said Sum of Fifty five thousand Pounds, but also the further or additional Sum of Fifteen thousand Pounds, or so much thereof as shall be wanted to carry on and compleat the said Navigation, and contribute the same among themselves in such Manner and Proportions as aforesaid; and that all and every the Powers, Authorities, Directions, Provisions, Penalties, Forfeitures, Clauses, Matters, and Things, in the said former Act contained, and not annulled and made void, or altered by this present Act, shall be used, exercised, practised, imposed, levied, recovered, and put in Execution, as fully and effectually, to all Intents and Purposes, as if this Act had not been made and enacted; any thing in this present Act contained to the contrary thereof notwithstanding.

Vessels under a certain Length or Tonnage, not permitted to pass without Leave, &c.

And whereas the Length of the Boats to pass on the said intended Navigation is prescribed by the said Act, but the Burthen of the same is not thereby ascertained; be it therefore further enacted, That no Boat or other Vessel of less Length than Seventy Feet, nor loaded with less Burthen than Twenty Tons, shall pass through any of the Locks to be made by virtue of the said Act, unless the Consent of the said Company

of

of Proprietors, their Successors or Assigns, or their principal Agent for the time being, be first had and obtained in Writing, or unless such Boat or other Vessel (being of the Length aforesaid) shall be returning, after having delivered its respective Lading, or be going to the Coal Pits for Coals.

Charges of passing this Act to be first paid.

And be it further enacted by the Authority aforesaid, That the Charges and Expences of procuring and passing this Act shall be immediately paid out of the Monies raised by virtue of the said former Act.

Limitation of Actions.

And be it further enacted, That if any Action, Suit, or Information, shall be brought or commenced against any Person or Persons for any thing done or to be done in pursuance of this Act, or in the Execution of the Powers and Authorities or the Orders and Directions herein before given or granted, every such Suit or Information shall be brought or commenced within Six Calendar Months next after the Fact committed; or in case there shall be a Continuation of Damages, then within Six Calendar Months next after the doing or committing such Damages shall cease, and not afterwards; and shall be laid and brought in the same Counties of Warwick, Stafford, Salop, and Worcester, respectively, where the Matters in Dispute shall arise, and not elsewhere; and the Defendant or Defendants in such Action or Suit, shall and may plead the General Issue, and give this Act, and the Special Matter, in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if it shall appear to have been so done, or if any Action, Suit, or Information, shall be brought after the Time so limited for bringing the same, or shall be brought in any other County or Place than as aforesaid; then, and in such Case, the Jury shall find for the Defendant or Defendants; or if the Plaintiff or Plaintiffs shall become Nonsuit, or suffer a Discontinuance of his, her, or their Action, Suit, or Information, after the Defendant or Defendants shall have appeared; or if a Verdict shall pass against the Plaintiff or Plaintiffs, or upon Demurrer, or otherwise, Judgement shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have Treble Costs, and shall have such Remedy for the same, as any Defendant or Defendants hath or have for Costs of Suit in other Cases by Law.

General Issue.

Treble Costs.

Publick Act. And be it further enacted, That this Act shall be allowed in all Courts whatsoever as a Publick Act, and all Judges, Justices, and other Persons, are hereby required to take Notice of it as such, without specially pleading the same. 7

FINIS.