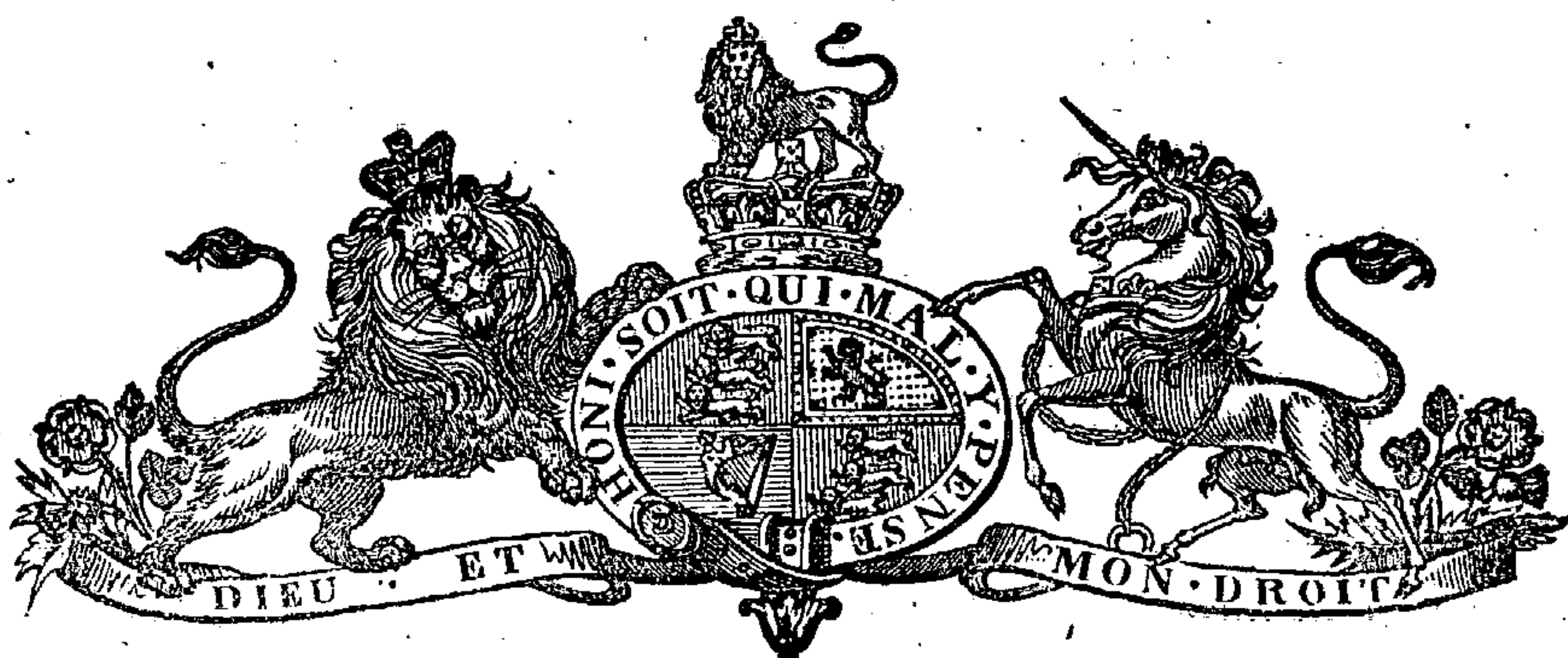




ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

Cap. xxxvii.

An Act for making a Canal from the *Francis Dock*, connected with the Duke of *Bridgewater's* Canal at *Runcorn* in the County of *Chester*, to join the *Weston* Canal or River *Weaver* Navigation at or near *Weston Point* in the same Parish, and to be called the *Runcorn and Weston* Canal.

[14th June 1853.]

WHEREAS the making of a Canal from the *Francis Dock* connected with the Duke of *Bridgewater's* Canal at *Runcorn* in the County of *Chester*, to join the *Weston* Canal or River *Weaver* Navigation at or near *Weston Point* in the same Parish, would be of great public Benefit: And whereas the Right Honourable *Francis Egerton* Earl of *Ellesmere* is willing at his own Expense to carry such Undertaking into execution, and it is expedient that Powers should be conferred on him for that Purpose; 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 Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons,

[*Local.*]

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The Runcorn and Weston Canal Act, 1853.

mons, in this present Parliament assembled, and by the Authority of the same, as follows ; (that is to say,)

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

I. That, subject to the Provisions of this Act, "The Lands Clauses Consolidation Act, 1845," shall be incorporated with and form Part of this Act.

Short Title.

II. That in citing this Act for any Purpose whatsoever, it shall be sufficient to use the Expression "*The Runcorn and Weston Canal Act, 1853.*"

Interpreta-
tion of
Terms.

III. That in addition to the Provisions in this Behalf contained in "The Lands Clauses Consolidation Act, 1845," the following Words, unless there be something in the Context repugnant to such Construction, shall be held to have and include the following Meanings ; namely,

The Word "Toll" shall include all Tolls, Rates, and Dues :

The Word "Goods" shall include all Goods, Wares, Commodities, Merchandise, and Articles of every Description :

The Word "Vessel" shall include all Boats, Barges, Ships, Vessels, and Canal and River-going Craft of every Description :

The Word "Canal" shall mean the Canal and Works by this Act authorized to be constructed.

Power to
make Canal
according to
deposited
Plan.

IV. And whereas a Plan and Section of the proposed Canal and other Works, showing the Line and Levels thereof, and also a Book of Reference thereto, containing the Names of the Owners, Lessees, and Occupiers of the Lands through or over which the Canal is intended to pass, or which may be required for the Works and other Purposes of the Undertaking, have been deposited with the Clerk of the Peace for the County of *Chester* ; Be it enacted, That, subject to the Provisions contained in this Act and the Act incorporated herewith, it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, to make and maintain the Canal in the Line, and through, upon, or over the Lands delineated on the said Plan and described in the said Book of Reference respectively, and according to the Levels defined on the said Section, and to enter upon, take, and use such of the said Lands as shall be necessary for such Purpose, and also to make and maintain such and so many Aqueducts, Feeders, Wells, Basins, Side Ponds, Reservoirs, Levels, Perforations, Weirs, Culverts, Steam and other Engines, Waterwheels, and other Machinery, as the Earl of *Ellesmere*, his Heirs or Assigns, shall from Time to Time think expedient for the Purpose of supplying the Canal, or any Part thereof, with Water, and for conveying Water to or from the same, and for raising Water from One Level of the said Canal to another, and also to supply the Canal, Aqueducts, Feeders, Reservoirs, and other

Works,

The Runcorn and Weston Canal Act, 1853.

Works, whilst being made, and after the same shall be made, with Water from the Duke of *Bridgewater's* Canal, and the Feeders and Reservoirs thereof.

V. That, subject to the Provisions and Restrictions in this Act, and in the Act incorporated herewith, the Earl of *Ellesmere*, his Heirs or Assigns, may, for the Purpose of constructing the Canal and other Works, execute any of the following Works ; (that is to say,)

Power to
Earl of Elles-
mere to con-
struct the
Works
herein men-
tioned.

He may make or construct in, upon, across, under, or over any Lands, or any Streets, Hills, Valleys, Roads, Footpaths, Rivers, Brooks, Streams, or other Waters within the Lands described in the said Plan or mentioned in the said Book of Reference, such temporary or permanent Bridges, Piers, Arches, Locks, Docks, Weirs, Sluices, Culverts, Floodgates, Banks, Dams, Tanks, Wharfs, Quays, Landing Places, Ways, Roads, Towing Paths, Drains, Passages, Fences, Houses, Warehouses, Sheds, Weighing Machines, Cranes, and other Conveniences, as he shall think proper :

He may divert or alter, either temporarily or permanently, the Course of any Brooks, Streams, or Watercourses, within such Lands, and any Roads, Streets, or Ways, Passages, Pipes, or Footpaths, as he shall think proper :

He may from Time to Time alter, repair, or discontinue the before-mentioned Works, or any of them, and substitute others in their Stead ; and

He may do all other Acts necessary for making, maintaining, altering, or repairing and using the Canal :

Provided always, that in the Exercise of the Powers granted by this Act and the Act incorporated herewith, the Earl of *Ellesmere*, his Heirs and Assigns, shall do as little Damage as may be, and shall make full Satisfaction in manner herein provided to all Parties interested, for all Damage by them sustained by reason of the Exercise of such Powers : Provided also, that if in the Exercise of the Powers granted by this Act and the Act incorporated herewith it be found necessary to cross, cut through, raise, sink, or use any Part of any Road, Street, Way, Passage, or Footpath, so as to render it impassable for or dangerous to Passengers or Carriages, or to the Persons entitled to the Use thereof, the Earl of *Ellesmere*, his Heirs or Assigns, shall, before the Commencement of any such Operations, cause a sufficient Road, Way, Passage, or Footpath to be made for and during the Progress of the Works, instead of the Road, Street, Way, Passage, or Footpath to be interfered with ; and shall, with all practicable Despatch, after the Completion of the said Works, at his or their own Expense, restore the said Road, Street, Way, Passage, or Footpath so crossed, cut through, raised, sunk, or used, and shall, until such Restoration, maintain such substituted Road, Street, Way, Passage, or Footpath

in

The Runcorn and Weston Canal Act, 1853.

in a State as convenient for Passengers and Carriages as the Road, Street, Way, Passage, or Footpath so interfered with, or as nearly so as may be.

Line of the Canal.

VI. That the Canal will be situate wholly within the Parish of *Runcorn* in the County of *Chester*, commencing at or near the South-westerly End of *Francis Dock*, in the Township of *Runcorn*, belonging to the Trustees under the Will of the Most Noble *Francis* late Duke of *Bridgewater*, and terminating by a Junction with the *Weston* Canal or River *Weaver* Navigation at or near its North-western Extremity at *Weston Point*.

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

VII. That if any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands described in the Plan or Book of Reference deposited as aforesaid, it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, after giving Ten Days Notice to the Owners of the Lands affected by such proposed Correction, to apply to Two Justices for the Correction thereof; and that if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, Mis-statement, or erroneous Description, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerk of the Peace for the said County of *Chester*, and with the Parish Clerk of the said Parish of *Runcorn*, and shall be kept by such Clerk of the Peace along with the Documents to which they relate, and thereupon the said Plan and Book of Reference shall be deemed to be corrected according to such Certificate, and it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, to make the Canal and other Works in accordance with such Certificate.

Certificate to be deposited.

Copies of Plan, &c. to be Evidence.

VIII. That true Copies of the said Plan and Book of Reference, or of any Alteration or Correction thereof, or Extracts therefrom, certified by the Clerk of the Peace for the Time being for the said County of *Chester* (which Certificate such Clerk of the Peace shall give to all Parties interested when required), shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Limit of Deviation from the Datum Line described in Sections.

IX. That in making the said Canal it shall not be lawful for the Earl of *Ellesmere*, his Heirs or Assigns, to deviate from the Levels of the Canal, as referred to the common Datum Line described in the Section so deposited as aforesaid, to any Extent exceeding in any Place Five Feet, or in passing through a Town, Village, Street, or Land continuously built upon, Two Feet, without the previous

Consent

The Runcorn and Weston Canal Act, 1853.

Consent in Writing of the Owners and Occupiers of the Land in which such Deviation is intended to be made; or in case any Street or public Highway shall be affected by such Deviation, then the same shall not be made without the like Consent of the Trustees, Surveyors, or Commissioners having the Control of such Street or public Highway, or if there be no such Trustees, Surveyors, or Commissioners, without the like Consent of Two or more Justices of the Peace, in Petty Sessions assembled for that Purpose, and acting for the District in which such Street or public Highway may be situated: Provided always, that Notice of every Petty Session to be holden for the Purpose of obtaining such Consent as aforesaid shall, Fourteen Days previously to the holding of such Petty Sessions, be given in some Newspaper circulating in the said County of *Chester*.

X. That it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, to deviate from the Line delineated on the Plan so deposited as aforesaid, provided that no such Deviation shall extend to a greater Distance than the Limits of Deviation delineated upon the said Plan; and that where the Limits of Deviation extend into the River *Mersey*, no Deviation towards the River *Mersey* from the Black Central Line shown on the deposited Plan shall be made so as to include any Portion of the River *Mersey* within the Limits of High-water Mark as defined by an Act passed in the Fifth and Sixth Years of the Reign of Her present Majesty, intituled *An Act for better preserving the Navigation of the River Mersey*, without the Consent in Writing of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty.

Limit of lateral Deviation.

XI. That where any Bridge shall be erected for carrying any Occupation Road over the Canal, the Road over such Bridge shall be formed and shall at all Times be continued of such Width as to leave a clear and open Space between the Fences of such Road of not less than Fifteen Feet, and the Ascent of every such Bridge for the Purpose of such Road shall not be more than One Foot in Twenty Feet; and a good and sufficient Fence shall be made and at all Times thereafter continued and repaired by and at the Expense of the Earl of *Ellesmere*, his Heirs or Assigns, on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of the Road over such Bridge.

Regulating the Formation of Bridges over Canal.

XII. That the Quantity of Land to be taken by the Earl of *Ellesmere*, his Heirs and Assigns, for extraordinary Purposes, shall not exceed Five Acres.

Land to be taken for extraordinary Purposes.

[*Local.*]

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XIII. That

The Runcorn and Weston Canal Act, 1853.

Powers for compulsory Purchase of Lands limited.

XIII. That the Powers of the Earl of *Ellesmere*, his Heirs and Assigns, for the compulsory Purchase of Land for the Purposes of this Act, shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for Completion of the Canal.

XIV. That after the Expiration of Five Years from the passing of this Act, all the Powers hereby granted to the Earl of *Ellesmere*, his Heirs and Assigns, for making the Canal and Works hereby authorized or otherwise in relation thereto, shall cease to be exercisable except as to so much of the Canal and Works as shall then be completed.

Power to take Tolls.

XV. That it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, from Time to Time during the Continuance of this Act, to ask and take any Tolls upon all Goods conveyed or carried upon the Canal, not exceeding the Tolls following; (that is to say,)

After the Rate of Sixpence for every Ton Weight of Twenty Hundreds Weight of One hundred and twelve Pounds each, if passing into or through any Lock on the Canal hereby authorized; and after the Rate of Fourpence for every such Ton if not passing into or through any such Lock; and that no Vessel using the Canal shall remain longer therein than is reasonably needful to discharge and load her Cargo, with an Interval of Three Days, in case such Vessel be required to discharge and load in the Canal.

Power to take Wharffages, &c.

XVI. That, in addition to the Tolls before authorized, it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, from Time to Time during the Continuance of this Act, to ask and take the following Rents and Wharffages upon all Goods using the Warehouses, Sheds, and Wharffs in and upon the Canal; (that is to say,)

A Rent calculated after the Rate of One Shilling *per* Ton of Twenty Hundreds Weight of One hundred and twelve Pounds each for or in respect of all Goods warehoused or deposited on any Warehouse or Shed erected or built under the Powers of this Act, and remaining for any Period not exceeding One Calendar Month; and so in proportion for any Period exceeding One such Month; and also a Wharffage or Rent calculated after the Rate of Sixpence for every such Ton placed or remaining on any Wharf formed or constructed under this Act, for any Period not exceeding One Calendar Month; and so in proportion for any longer Period than a Month.

Tolls to be charged equally, and without Preference.

XVII. That the several Tolls authorized to be taken by this Act shall at all Times be charged equally on all Persons, and after the same Rate in respect of the same Description of Vessels and Goods, passing only over the same Portion of the Canal under the same Circumstances;

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Circumstances; and that the Earl of *Ellesmere*, his Heirs and Assigns, or his or their Agents and Servants, shall not give any Preference to any Persons, Vessels, or Goods whatsoever, as against any other Persons, other similar Vessels, or other similar Goods whatsoever, as respects the Use of the Canal or the Works and Conveniences thereto belonging.

XVIII. That it shall not be lawful for the Earl of *Ellesmere*, his Heirs or Assigns, at any Time to demand or take a greater Amount of Toll, or make any greater Charge for the Carriage of Goods, than he is by this Act authorized to demand; and upon Payment of the Tolls from Time to Time demanded, all Companies and Persons shall be entitled to use the Canal with Vessels, Barges, Lighters, and other Vessels.

Canal to be free to all Persons on Payment of Tolls.

XIX. That a List of all the Tolls authorized by this Act to be taken, and which shall be exacted by the Earl of *Ellesmere*, his Heirs and Assigns, shall be published by the same being painted upon One Toll Board or more in distinct Black Letters on a White Ground, or White Letters on a Black Ground, or by the same being printed in legible Characters on Paper affixed to such Board, and by such Board being exhibited in some conspicuous Place on the Quays, Locks, or Works where such Tolls may be made payable; and no Toll shall be demanded or taken by the Earl of *Ellesmere*, his Heirs or Assigns, for the Use of the Canal during any Time at which the Boards hereinbefore directed to be exhibited shall not be so exhibited.

List of Tolls to be exhibited on Boards.

XX. That the Tolls shall be paid to such Persons, and at such Places, and in such Manner, and under such Regulations, as the Earl of *Ellesmere*, his Heirs and Assigns, shall by Notice annexed to the List of Tolls appoint.

Tolls to be paid as directed by the Earl of *Ellesmere*.

XXI. That if Default shall be made in the Payment of any Tolls, Rents, or Charges payable under this Act in respect of any Goods or Vessels, it shall be lawful for the Person for the Time being appointed by the Earl of *Ellesmere*, his Heirs or Assigns, to collect such Tolls, to distrain any such Goods or Vessels, and all the Tackle and Furniture thereof, and the Goods therein, or any other Goods or Vessels, and the Tackle and Furniture, with the Goods therein, and any Horses, Mules, or other Cattle drawing the same, within the Limits of the Canal and Works of the Earl of *Ellesmere*, together with all Expenses of and connected with the Demand and Recovery of such Tolls, Rents, or Charges, belonging to the Person liable to pay such Tolls, and to sell any such Distress, and out of the Proceeds of such Sale to pay the Tolls due to the Earl of *Ellesmere*, his Heirs or Assigns, rendering the Overplus (if any) after deducting the Costs,

Recovery of Tolls.

to

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to the Person entitled thereto; or it shall be lawful for the Earl of *Ellesmere*, his Heirs or Assigns, to recover such Tolls by Action in any Court of competent Jurisdiction, or by all or any of the aforesaid Means.

Masters of Boats to give to the Collectors Account in Writing of the Goods on board.

XXII. That the Master, Owner, or other Person having the Care of any Vessel passing on the Canal, or any Part thereof, shall give a just Account in Writing, signed by him or by the Owner of such Vessel or his Agent, to the Collectors of the said Tolls, or other Officers or Persons to be appointed by the Earl of *Ellesmere*, his Heirs or Assigns, to receive the said Tolls or to require such Accounts at the Places where they shall attend for that Purpose, of the several Qualities, Quantities, and Weights of the Goods which shall be in or about such Vessel, and of the Place from whence the same shall be brought upon the Canal, and whether and at what Place (if any) the same is intended to be unloaded or landed upon the Line of the Canal or the Works or Premises thereof, and also the Qualities, Quantities, and Weights of such Goods as shall have been discharged from or taken out of any Vessel after it shall have entered the Canal, and before its Arrival at the Place where such Account is to be given; and if the Goods contained in or previously discharged from such Vessel shall be liable to the Payment of different Tolls, then such Master, Owner, or other Person shall specify in Writing the Quantities liable to the Payment of each of the said Tolls, and in case any such Master, Owner, or other Person shall neglect or refuse to give such Account to any such Collector (if demanded), or shall give a false Account, every Person so offending shall upon Conviction forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, any Sum not exceeding the Sum of Twenty Shillings for every Ton of Goods which shall be in such Boat, over and above the respective Tolls payable for the same.

Penalty on Persons evading the Payment of full Toll.

XXIII. That if any Person shall fraudulently carry or convey any Goods on the Canal, or any Part thereof respectively, on Payment of a lower Rate or Toll than that to which such Goods shall be subject or liable, he shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence any Sum not exceeding Five Pounds, over and above the Toll to which such Goods shall be liable.

For settling Disputes as to Amount of Tolls.

XXIV. Provided always, That if any Disputes shall arise concerning the Amount of any Toll due to the Earl of *Ellesmere*, his Heirs or Assigns, or concerning any Penalty, or concerning the Charges occasioned by any Detention or Sale under the Provisions of this Act, the same shall be determined by some Justice of the Peace for the said County of *Chester*, upon Application made to him for that Purpose; and the Earl of *Ellesmere*, his Heirs or Assigns, may in the meanwhile detain

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detain any Goods or Vessel seized by him, or (if the Case so require) the Proceeds of the Sale thereof; and it shall be lawful for such Justice to assess and award such Costs to be paid by either of the Parties as he shall think just and reasonable, and in case of Nonpayment thereof on Demand such Costs shall be levied by Distress and Sale of the Goods or Vessel of the Party liable to pay the same, by Warrant under the Hand and Seal of the Justice.

XXV. That if any Collector of Tolls, Lock-keeper, Store-keeper, or any other Person in the Service or Employment of the Earl of *Ellesmere*, his Heirs or Assigns, who shall be discharged or suspended from his Office, or if the Wife, Widow, or any of the Family or Representatives of any Collector of Tolls, Lock-keepers, Store-keepers, or other Persons in the Service of the Earl of *Ellesmere*, his Heirs or Assigns, who shall be so discharged or suspended, or who shall die, abscond, or absent himself, shall refuse or neglect, after Seven Days Notice in Writing for that Purpose, to deliver up to the Earl of *Ellesmere*, his Heirs or Assigns, or to any Person appointed by him or them for that Purpose, any Toll House, Storehouse, Dwelling House, Office, or other Building, with its Appurtenances, or any Books, Papers, or other Matters belonging to the Earl of *Ellesmere*, his Heirs or Assigns, in the Possession or Custody of such Person at the Occurrence of any such Event as aforesaid, in right of his Appointment or Situation in the Service of the Earl of *Ellesmere*, his Heirs or Assigns, then upon Application being made by the Earl of *Ellesmere*, his Heirs or Assigns, to any Justice of the Peace for the said County of *Chester*, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon such Toll House, Storehouse, Dwelling House, Office, or other Building, and to remove any Person found therein, and to take Possession thereof, and of any such Books, Papers, or other Matters as aforesaid, and to deliver the same to the Earl of *Ellesmere*, his Heirs or Assigns, or any Person appointed by him or them for that Purpose.

If Collector of Tolls refuse to deliver up Possession of Toll Houses, &c., Justices may enforce the same.

XXVI. That it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, from Time to Time to make such Byelaws as he shall think fit for all or any of the following Purposes; (that is to say,)

For governing or regulating the Use of the Canal, and of the Locks, Quays, and other Works belonging thereto:

For regulating the Exercise of the several Powers of the Lock-keepers, Store-keepers, and other Officers and Servants to be appointed by the Earl of *Ellesmere*, his Heirs or Assigns, for the Purpose of superintending the Traffic upon the Canal:

For regulating the Admission of Vessels into the Canal, and the Locks belonging thereto, and for their Removal from or out of the same:

[*Local.*]

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For

Power to the Earl of *Ellesmere* to make Bye-laws for Purposes herein mentioned.

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For regulating the loading, unloading, and removing of all Goods on or from the Quays and other Works of the Canal:

For regulating the Duties and Conduct of all Persons, as well the Servants of the Earl of *Ellesmere*, his Heirs or Assigns, as others, who shall be employed in or about the Quays, Works, and Premises of the Canal.

Penalty for Breach of such Byelaws.

XXVII. That it shall be lawful for the Earl of *Ellesmere*, his Heirs and Assigns, by the Byelaws so to be made by him or them, to impose such reasonable Penalties as he or they shall think fit for the Breach of such Byelaws, or any of them, not exceeding for any One Offence the Sum of Five Pounds.

No Byelaws to be valid until confirmed by Two Judges or by Justices at Quarter Sessions.

XXVIII. That no Byelaw made by the Earl of *Ellesmere*, his Heirs and Assigns, under the Authority of this Act, except such as may relate to his or their Officers or Servants, shall be valid or binding unless the same shall be allowed by Two of the Judges of the Superior Courts at *Westminster*, or by the Justices assembled at some General or Quarter Sessions of the Peace for the County of *Chester*; and it shall be incumbent on such Judges or Justices, on the Request of the Earl of *Ellesmere*, his Heirs or Assigns, to inquire into any Byelaws which may be tendered to them for that Purpose, and to allow or disallow of the same as they shall think fit: Provided always, that no such Byelaw shall be confirmed unless Notice of the Intention to apply for a Confirmation of the same shall have been given in One or more Newspapers circulating within the County of *Chester* One Month at least before the hearing of such Application; and any Person aggrieved by any such Byelaw, on giving Notice of the Nature of his Objection to the Earl of *Ellesmere*, his Heirs or Assigns, Ten Days before the hearing of such Application, may by himself or themselves, or his or their Counsel, Attorney, or Agent, be heard thereon, but not so as to allow more than One Party to be heard on the same Matter of Objection.

Copy of proposed Byelaws to be open for Inspection.

XXIX. That for One Month at least previously to any Application a Copy of every such proposed Byelaw shall be kept at the principal Office of the Earl of *Ellesmere*, his Heirs or Assigns; and all Persons applying for that Purpose may at all seasonable Times inspect such Copy without Fee or Reward; and shall on Application be furnished by the Earl of *Ellesmere*, his Heirs or Assigns, with a Copy thereof, or of any Part thereof, on Payment of Sixpence for every One hundred Words.

Publication of Byelaws.

XXX. That such Byelaws, when confirmed, shall be printed on Boards in legible Characters, and hung up, affixed, and continued on the

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the Front or some conspicuous Part of the principal Office of the Earl of *Ellesmere*, his Heirs or Assigns, and also in some conspicuous Place in or adjoining to the Locks, Quays, and Works of the Canal, according as the same may relate to the said Locks, Quays, and Works respectively; and such Boards shall be from Time to Time renewed as often as the Byelaws thereon, or any Part thereof, shall be obliterated or destroyed.

XXXI. That such Byelaws, when so confirmed, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Parties acting under the same.

Byelaws when confirmed shall be binding.

XXXII. That all the Byelaws to be made by the Earl of *Ellesmere*, his Heirs or Assigns, shall be so framed as to allow the Justice, before whom any Penalty imposed thereby may be sought to be recovered, to order a Part only of such Penalty to be paid if such Justice shall think fit.

Byelaws to be so framed as that Penalties may be mitigated.

XXXIII. That the Production of a written or printed Copy of the Byelaws of the Earl of *Ellesmere*, his Heirs or Assigns, authenticated by his or their Signature, shall be Evidence of the Existence and of the due making of such Byelaws in all Prosecutions and other Proceedings under the same, or under the Powers hereby given; and that it shall be sufficient Proof of the Publication of such Byelaws that printed Boards containing a Copy thereof were for the Time being affixed in the Manner by this Act directed.

Evidence of Byelaws.

XXXIV. That every Owner, Master, or Person having the Charge or Command of any Vessel shall from Time to Time, when thereto required, permit and suffer the same to be unladen or properly gauged and measured by such Person as shall be appointed for that Purpose by the said Earl of *Ellesmere*, his Heirs or Assigns; and every Owner, Master, or other Person having the Charge or Command of any Vessel, who shall refuse to permit any such Vessel to be unladen or gauged and measured as aforesaid, and also any Owner, Master, or other Person who shall have the Charge or Command of any Vessel, who shall navigate the same upon the Canal, or who shall cause or permit such Vessel to be at any Time unloaded without a Stage being laid from the Side of such Vessel to the Bank of the Canal, in order to prevent any Dirt or Rubbish falling into the same, shall for every such Offence respectively forfeit and pay any Sum not exceeding Five Pounds: Provided always, that in case the Goods so measured or weighed shall upon such weighing, measuring, or gauging appear to be of greater Weight or Quantity than such Owner, Master, or Person having care of the said Vessel affirmed the same to be, then the Owner, Master, or Person so affirming shall pay the Costs and Charges of such

Boats, &c. to be gauged when required by the Earl of Ellesmere.

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such unloading, weighing, measuring, and gauging; all which said Costs and Charges, upon Refusal of Payment thereof on Demand, shall and may be recovered as the said Rates are hereby appointed to be recovered; but if such Goods shall appear to be of the same or less Weight or Quantity than the Owner, Master, or Person so declared the same to be, then the Earl of *Ellesmere*, his Heirs or Assigns, or his or their Agents or Servants, shall pay the Costs and Charges of such unloading, weighing, measuring, and gauging.

Owners of
Boats, &c. to
be answer-
able for Da-
mage done
by their
Vessels,
Horses, or
Servants.

XXXV. That the Master or Owner of any Vessel navigating or passing upon the Canal shall be and he is hereby made answerable for all such Damage, Spoil, or Mischief as shall be done by his Vessel, or the Horses used in drawing the same, or by any of the Boatmen, Watermen, or others belonging to or employed in or about the same respectively, unto any of the Bridges, Weirs, Locks, Dams, Engines, Trenches, Sluices, or other Works in, upon, or belonging to the Canal, either by loading or unloading or by navigating any such Vessel, or by any other Means whatsoever, or done to the Owners or Occupiers of any Buildings, Lands, or Tenements, Vessels or Goods, adjoining or lying in or near the Canal, and for any Trespass whatsoever contrary to the several Directions and Restrictions in this Act contained, or any of them; and every such Master or Owner shall, upon Conviction before any Justice of the Peace, pay the Person or Persons injured the Damages to be ascertained by such Justice, provided such Damages do not exceed the Sum of Ten Pounds.

Boats navi-
gating the
Canal to
have the
Names of the
Owners re-
gistered and
painted
thereon and
Indexes
fixed.

XXXVI. That every Owner, Master, or other Person having the Care or Command of any Vessel passing upon the Canal shall cause his Name and Place of Abode, and a progressive Number of his Vessel, to be registered and entered with the Clerk of the Earl of *Ellesmere*, his Heirs or Assigns, or such other Officer or Officers of the said Earl, his Heirs or Assigns, as shall be appointed for such Purpose, and shall also cause such Name; Place of Abode, and Number to be painted in large White Capital Letters and Figures on a Black Ground at the Outside of the Head or Stern of every such Vessel, higher than the Place to which the same shall sink into the Water when fully laden, and shall also fix on each Side of such Vessels respectively correct Indexes of Copper, Lead, or other Metal, of such graduated Dimensions, of such convenient Height, and under such Regulations as the Earl of *Ellesmere*, his Heirs or Assigns, shall from Time to Time direct, so that the true Weight of the Lading on board may at all Times be clearly ascertained and shown; and every Owner, Master, or other Person having the Care or Command of any such Vessel, who shall navigate the same upon the Canal without having such Names, Figures, or Indexes thereon as are herein-before directed, or shall alter, erase, deface, or destroy the same or any Part thereof, or shall fix any
false

Penalty for
Neglect.

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false Name, Figure, or Index, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

XXXVII. That every Person who shall commit any of the Acts following shall be deemed guilty of an Offence, and shall for every such Offence be liable to a Penalty not exceeding Ten Pounds; (that is to say,)

Penalty on
Persons
guilty of
Offences
herein
named.

1. Every Person who shall boil or heat Pitch, Tar, Resin, Turpentine, Oil, or other combustible Matter in any Vessel lying within the Canal, except in such Place and in such Manner as shall be specially appointed by the Earl of *Ellesmere*, his Heirs or Assigns, for that Purpose :
2. Every Person who shall have or cause to be had any Fire, Candle, or Lamp lighted within the Canal belonging to the same, except at such Times and in such Manner as shall be permitted by the Byelaws of the Earl of *Ellesmere*, his Heirs or Assigns :
3. Every Person who shall, without the Permission of the Earl of *Ellesmere*, his Heirs or Assigns, bring or suffer to remain any Gunpowder on the Quays or Works of the Canal, or any Vessel within the Canal.

XXXVIII. That the Agents or Servants of the Earl of *Ellesmere*, his Heirs or Assigns, may enter into any Vessel within the Canal, to search for any Fire or Light in or suspected to be in such Vessel, contrary to the Provisions of this Act, or of any Byelaw made in pursuance thereof, and may extinguish the same; and any Person who shall obstruct such Agents or Servants in the Execution of such Duty shall for every such Offence be liable to a Penalty not exceeding Ten Pounds.

Power to
enter Ships,
and search
for and
extinguish
Fires or
Lights.

XXXIX. That the Earl of *Ellesmere*, his Heirs or Assigns, shall not under any Circumstances, or in any Case whatever, be answerable or accountable for or be liable to make good any Loss or Damage which may happen to any Goods, or to any Vessel, or to any Property of any Description, by Fire, Storm, or Tempest.

Earl of
Ellesmere
not to be
liable for
Losses by
Fire, &c.

XL. That if any Vessel shall be placed in any Part of the Canal so as to obstruct the same or any of the Works connected therewith, and the Person having the Care of such Vessel shall wrongfully refuse or neglect, upon Request made for that Purpose, to remove the same within a reasonable Time, he shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Ten Shillings for every Hour such Obstruction shall continue; and it shall be lawful for the Agents or Servants of the

Vessels lying
so as to
obstruct
Navigation
to be re-
moved.
Penalty on
Refusal.

[Local.]

7 Y

Earl

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Earl *Ellesmere*, his Heirs or Assigns, to cause any such Vessel to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction in the Navigation, and to seize and detain such Vessel and the Lading and Tackle thereof, or any Part of such Lading and Tackle, until the Charges occasioned by such unloading and Removal are paid; and if any Vessel shall be sunk in any Part of the Canal, and the Person having the Care of such Vessel shall not without Loss of Time weigh or draw up the same, it shall be lawful for the Agents or Servants of the Earl of *Ellesmere*, his Heirs or Assigns, or any of them, to cause such Vessel to be weighed or drawn up, and to detain and keep the same until Payment be made of all Expenses necessarily occasioned thereby.

Penalty on
obstructing
the Canal,
&c.

XLI. That if any Person shall suffer the Lading of any Vessel passing or being in the Canal hereby authorized to be made, to lie over the Sides thereof, so as to obstruct the Passage of any other Vessel, or to do any Damage thereto or to any of the Works of the Earl of *Ellesmere*, his Heirs or Assigns, or shall load or unload any Goods in or over any of the Locks of the Earl of *Ellesmere*, his Heirs or Assigns, or shall navigate or cause to be navigated any Vessel through or upon the Canal without a Rudder to steer or guide the same, or without a skilful Person on board to steer and manage such Vessel, and also a Person attending to the Horses, Mules, or other Cattle drawing the same, or shall float any Timber or other Article in or upon the Canal, or shall wilfully obstruct or prevent any Person in the Execution of this Act, every Person so offending in any of the Cases aforesaid shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Five Pounds.

Penalty on
overloading
Vessels.

XLII. That if any Person having the Care of any Vessel passing or being upon the Canal, which shall be so overloaded as to obstruct the Passage of any other Vessel, shall not, immediately upon the Requisition of any Officer of the Earl of *Ellesmere*, his Heirs or Assigns, remove the same Vessel, or the excessive Load thereof, so as to make a free Passage for other Vessels to pass along the Canal, every such Person shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Five Pounds.

Penalty on
Persons
throwing
Rubbish into
Canal.

XLIII. That if any Person shall throw any Gravel, Dirt, Rubbish, Stones, or other Nuisance into the Canal, every such Person shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Forty Shillings.

XLIV. That

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XLIV. That if any Person shall, without the Consent of some authorized Officer of the Earl of *Ellesmere*, his Heirs or Assigns, throw, cast, or lay upon any Bank or Towing-path or Wharf belonging to the Canal, or any Part thereof respectively, any Stones, Manure, Dust, Ashes, Rubbish, or other Matter, every such Person so offending shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Forty Shillings.

Penalty on
laying Rub-
bish, &c. on
Towing-
path.

XLV. That if any Person shall ride, lead, or drive any Horse, Ass, Mule, or other Beast (not being actually employed in towing or hauling a Vessel on the Canal), or drive or conduct any Cart or other Vehicle whatsoever on any Towing-path belonging to the Canal, or shall load or unload any Vessel from or upon, or carry or convey such Loading across any Towing-path, without the Consent of the Earl of *Ellesmere*, his Heirs or Assigns, or his or their Clerk or other Agent or Officer, every such Person so offending shall, upon Conviction, forfeit and pay to the Earl of *Ellesmere*, his Heirs or Assigns, for every such Offence a Sum not exceeding Forty Shillings.

Penalty for
riding on
Towing-
path, and for
unloading
Vessels
across the
same.

XLVI. Whereas the Canal by this Act authorized will form a Junction with the *Weston* Canal or River *Weaver* Navigation in manner aforesaid, and it may be necessary that a Portion of the Traffic passing over the Canal by this Act authorized shall also pass over the *Weston* Canal or River *Weaver* Navigation, between such Junction and the River *Mersey*, or some Part thereof, and not over any Portion of the River *Weaver* Navigation upon which the Trustees of the River *Weaver* Navigation are entitled to demand a Toll: And whereas, in consideration of the Charges and Expenses which the Trustees of the River *Weaver* Navigation, their Successors and Assigns, will be at, in consequence of such increased Traffic upon their Canal, be it enacted, That it shall be lawful for the Trustees of the River *Weaver* Navigation, their Successors and Assigns, to ask and take a Toll of Sixpence *per* Ton, and so in proportion for any greater or less Quantity than a Ton, for all Goods that shall be carried or conveyed in Vessels from or to the Canal by this Act authorized, and that shall pass over only some Portion of the said *Weston* Canal or River *Weaver* Navigation lying between the Junction aforesaid and the River *Mersey* at *Weston Point*, and which would not have been liable to any Toll if this Act had not passed, such Toll to be paid at such Place or Places, and estimated in such Manner, and to be recoverable by such Means, as the Tolls which the Trustees of the River *Weaver* Navigation are entitled to levy on other Parts of their Navigation are now paid and recoverable:
Provided

Power to
levy Tolls
on Part of
the Weaver
Navigation.

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Provided always, that the Master, Captain, or other Person having the Charge of any Vessel passing between the said Junction and the River *Mersey* at *Weston Point* aforesaid, and which may use or pass along or through any of the Basins, Locks, or Gates of the said River *Weaver* Navigation at *Weston Point* aforesaid, in the Course of Passage from or to the said Canal by this Act authorized to be made, shall in no Case of using or passing as aforesaid pay to the said Trustees of the River *Weaver* Navigation less than the Toll of Two Shillings and Sixpence, the same to be recoverable by and paid to the said Trustees in like Manner as the other Tolls payable on other Parts of their Navigation: Provided also, that the Tolls by this Act authorized to be charged by the Trustees of the River *Weaver* Navigation, their Successors and Assigns, shall not be charged in respect of any Goods which in the Course of the same Transit or Voyage shall have already paid or shall become liable to pay to the said Trustees the Toll which they now by Law are entitled to charge for the Use of any Part of their Navigation in respect of which a Toll could have been demanded prior to the passing of this Act.

Canal to be made under certain Conditions for Protection of the Trustees of the *Weaver* Navigation.

XLVII. That the said Canal hereby authorized to be made shall communicate with the said *Weston* Canal or River *Weaver* Navigation under the following and no other Conditions; (that is to say,)

There shall be a Dock or Basin at the South End of such Canal capable of holding not less than Four Vessels, the Entrance into which Dock or Basin, when completed, shall not be nearer than One hundred and twenty Yards to the existing Locks of the Basins of the said *Weston* Canal or River *Weaver* Navigation at *Weston Point*; and there shall be a good and sufficient Bridge or Viaduct over the Entrance or Neck of such Dock or Basins, in continuation of the Towing-path of the *Weston* Canal or River *Weaver* Navigation, and parallel with the Stream of the said *Weston* Canal, which said Bridge shall be erected and built and for ever thereafter maintained and worked by and at the Cost and Expenses of the Earl of *Ellesmere*, his Heirs or Assigns, and shall be free and open to the said River *Weaver* Trustees, their Servants and Agents, and all other Persons using the said *Weston* Canal or River *Weaver* Navigation, and all and every the Persons above mentioned shall be entitled at all Times to use the said Bridge freely and without Payment for the same.

Not to use Towing-paths, &c. of the *Weaver* Navigation, except as

XLVIII. That in making or afterwards for the Purpose of using the said Canal and other Works hereby authorized, the said Earl of *Ellesmere*, his Heirs and Assigns, shall not take any temporary or other Possession, nor use any Part of the Towing-paths of the said *Weston*

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Weston Canal or River *Weaver* Navigation, nor any other of the Property belonging to the Trustees of the said River *Weaver* Navigation, except so far and in such Manner as may be necessary for effectually making and maintaining the Junction hereby authorized, nor shall the said Earl of *Ellesmere*, his Heirs or Assigns, erect any Warehouses, Sheds, Wharfs, Cranes, or other Works or Conveniences for loading or unloading into or out of Vessels any Goods, Wares, Merchandise, or other Articles on the Banks of the said Canal hereby authorized to be made, within the Distance of Twenty Yards from the Junction of the same Canal with the *Weston* Canal or River *Weaver* Navigation, without the Consent, for each of such Purposes, first had and obtained of the said Trustees of the River *Weaver* Navigation, to be signified in Writing by their Clerk.

herein provided.

XLIX. That any Works authorized by this Act to be made to effect the Junction of the said Canal with the said *Weston* Canal or River *Weaver* Navigation, or Towing-paths thereof, shall be made and effected under the Direction and Superintendence, or otherwise to the reasonable Satisfaction of the Engineer for the Time being of the said River *Weaver* Trustees, at the Expense of the Earl of *Ellesmere*, his Heirs or Assigns, and shall for ever afterwards be maintained and kept in perfect Order and Repair by and at the Expense of the Earl of *Ellesmere*, his Heirs or Assigns; and that nothing in the said incorporated Act or in this Act contained shall extend to authorize the Earl of *Ellesmere*, his Heirs or Assigns, to purchase or take any of the Lands or Grounds of the River *Weaver* Trustees, or to alter, vary, or interfere with the said *Weston* Canal or River *Weaver* Navigation, or any of the Works thereof, except so far and in such Manner as may be necessary for effectually making and maintaining the Junction of the said Canal hereby authorized to be made with the said *Weston* Canal or River *Weaver* Navigation.

Certain Works to be constructed under Direction of the Engineer of the Weaver Trustees.

L. Provided always, That nothing in this Act shall be deemed or construed to extend to authorize the Earl of *Ellesmere*, his Heirs or Assigns, to divert, take, or use any of the Water of the said River *Weaver*, or of the said *Weston* Canal, or, except as is herein otherwise provided, to prejudice, diminish, alter, take away, or affect any of the Rights, Privileges, Powers, or Authorities of the said Trustees of the River *Weaver* Navigation, or of their Successors, but, except as aforesaid, saving and reserving to the said Trustees all their Rights, Powers, Privileges, Authorities, and Provisions in their several Acts of Parliament respectively contained, as if this Act had not been passed.

Reserving Rights of the Trustees of the Weaver Navigation.

LI. That nothing herein contained shall authorize the said Earl of *Ellesmere*, his Heirs or Assigns, to take, use, or interfere with any Water of Bridge-water Canal.

[Local.]

7 Z

Water

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not to be
taken with-
out Consent.

Water the Property of the said Trustees under the Will of the Most Noble *Francis* late Duke of *Bridgewater*, without the Consent in Writing of the Trustees for the Time being under the said Will first had and obtained for that Purpose.

Power to
sell and
convey the
Canal to the
Trustees
under the
Will of the
late Duke of
Bridge-
water.

LII. That in the event of the Trustees under the Will of the Most Noble *Francis* late Duke of *Bridgewater* deeming it advantageous to their Trust Estate to become the Owners of the Canal hereby authorized, the said Earl of *Ellesmere*, his Heirs or Assigns, shall and they are hereby required, at the Request of the said Trustees for the Time being, to sell and convey the said Canal hereby authorized to the said Trustees, to be held by them upon the Trusts of the said Will, and to be purchased at such Price as may be agreed upon, or, in the event of any Dispute about the same, as shall be fixed by Arbitration in like Manner as in Cases of Arbitrations under the Provisions of "The Lands Clauses Consolidation Act, 1845."

Canal and
Works to be
deemed Real
Estate.

LIII. That the Canal and Works hereby authorized, and all and every the Tolls, Rates, Powers, and Authorities herein granted to the said Earl of *Ellesmere*, his Heirs and Assigns, shall be deemed Real Estate, and shall be vested in the said Earl of *Ellesmere*, his Heirs and Assigns.

Works not
to be exe-
cuted on
Crown
Lands with-
out the Con-
sent of the
Commis-
sioners of
Woods, &c.

LIV. That, notwithstanding anything herein-before contained, the Earl of *Ellesmere*, his Heirs or Assigns, shall not execute any of the Works herein-before mentioned upon or otherwise interfere with such Part of the Bed or Shores of the River *Mersey* as belongs to and is now vested in Her Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, first had and obtained for that Purpose, and which such Commissioners or Commissioner are and is hereby empowered to give upon Payment of such Compensation in Money, or upon such other Terms and Conditions, as they or he shall see fit.

Works below
High-water
Mark not to
be executed
without the
Consent of
the Admi-
ralty.

LV. That the said Canal shall not be constructed below High-water Mark, defined as aforesaid, without the previous Consent of the said Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only according to such Plan and under such Restrictions and Regulations as the said Lord High Admiral, or the said Commissioners for executing the Office of Lord High Admiral, may approve, such Approval being signified as last aforesaid; and where any such Work shall have been constructed it

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it shall not be lawful for the Earl of *Ellesmere*, his Heirs or Assigns, at any Time to alter or extend the same without obtaining, previously to making any such Alteration or Extension, the like Consent or Approval; and if any such Work shall be commenced or completed contrary to the Provisions of this Act, it shall be lawful for the said Lord High Admiral, or the said Commissioners for executing the Office of Lord High Admiral, to abate, alter, and remove the same, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Earl of *Ellesmere*, his Heirs or Assigns, and the Amount thereof shall be a Debt due to the Crown, and be recoverable accordingly with Costs of Suit.

LVI. That if at any Time or Times it shall be deemed expedient by the said Lord High Admiral, or the said Commissioners for executing the Office of Lord High Admiral, to order a local Survey and Examination of any Works hereby authorized affecting the tidal Water of the River *Mersey*, or of the intended Site thereof, the Earl of *Ellesmere*, his Heirs or Assigns, shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Earl of *Ellesmere*, his Heirs and Assigns, and if not paid upon Demand may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered with Costs as a Penalty is or may be recoverable from the Earl of *Ellesmere*, his Heirs or Assigns.

Admiralty may order local Survey at Expense of the Earl of *Ellesmere*, if they think fit.

LVII. That if any Work to be constructed by the Earl of *Ellesmere*, his Heirs or Assigns, in or across the tidal Water of the said River *Mersey*, or if any Portion of any such Work which affects such River shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the said Lord High Admiral, or the said Commissioners for executing the Office of Lord High Admiral, to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Earl of *Ellesmere*, his Heirs or Assigns, and the Amount thereof shall be a Debt due from the Earl of *Ellesmere*, his Heirs and Assigns, to the Crown, and be recoverable accordingly with Costs of Suit.

Works affecting tidal Waters may be removed by the Admiralty at Expense of the Earl of *Ellesmere*.

LVIII. That the Canal shall not be subject to the Control, Direction, Survey, or Order of any Commissioners of Sewers, or to any Law or Statute relating to Sewers.

Canal not to be subject to Laws relating to Sewers.

LIX. That nothing herein contained shall be deemed or construed to exempt the Canal from the Provisions of any General Act relating to

Canal to be subject to the Provisions to

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of any
General Act.

to this Act, or of any General Act relating to Canals, or from any future Revision and Regulation, under the Authority of Parliament, of the Tolls authorized to be taken by this Act.

Expenses of
Act.

LX. That all the Costs, Charges, and Expenses of obtaining and passing this Act, and incidental thereto, shall be paid by the Earl of *Ellesmere*, his Heirs or Assigns.

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