



ANNO QUINTO

# GULIELMI IV. REGIS.

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## Cap. vii.

An Act to authorize the Sale to and Purchase by *John Lord Rolle* of the Rights of Persons claiming to have divers Rights on such Parts of *Great Torrington* and *Castle Hill Commons* in the County of *Devon* as now form Part of the Cut or Canal called the *Rolle Canal*. [12th June 1835.]

**W**HEREAS there are within the Parish of *Great Torrington* in the County of *Devon* certain Commons or a Tract or Tracts of Open Land called *Great Torrington Common* and *Castle Hill Common*, upon which Commons the Inhabitants of the Town of *Great Torrington*, Occupiers of ancient Messuages or Tenements, claim divers Rights: And whereas the Right Honourable *John Lord Rolle* Baron *Rolle* of *Steevenstone* in the County of *Devon* claims to be Lord of the Manor of *Great Torrington* aforesaid, and claims as such to be seised of the Ground and Soil of the said Commons or Tract or Tracts of Open Land: And whereas the said *John Lord Rolle* in or about the Year One thousand eight hundred and twenty-four made and now maintains at his own Expence a Navigable Cut or Canal called "The *Rolle Canal*," extending from *Healand Moor* in the Parish of *Saint Giles in the Wood*, passing through the Parishes of *Great Torrington* aforesaid and *Monkleigh* to a Place called *Beacon Down Marsh*, in the Parish of *Lanclas* in the said County of *Devon*, which passes through the Lands of the said *John Lord Rolle* and also the several Parts of the said Commons called *Great Torrington Common* and *Castle Hill Common*, in the Parish of *Great Torrington*

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The Parts of Commons occupied by the Rolle Canal to be vested in Lord Rolle on Payment of the Value of the Commonable Rights thereon.

aforesaid, such last-mentioned Lands being together of the Length of One Mile Three Furlongs Eight Chains and Thirty-four Links, and occupying by Admeasurement Nine Acres or thereabouts of Common Ground: And whereas the said Canal has been made and maintained by the said *John Lord Rolle* at a great Expence: And whereas it is expedient, that as far as relates to the said Lands last mentioned the said *John Lord Rolle*, his Heirs and Assigns, should hold the same wholly and entirely freed and discharged from all Claim or Claims of Rights whatsoever therein, subject to the Provisions herein-after contained: And whereas this Object cannot be carried into execution 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 Parliament assembled, and by the Authority of the same, That all those Pieces and Parcels of the said Commons called *Great Torrington Common* and *Castle Hill Common*, or either of them, or by whatsoever other Name or Names the same or either of them have or hath been called or known, now occupied by and forming Part of the said Canal called "The Rolle Canal," with the Towing Paths, Banks, Ditches, and Fences thereof, together with such Parts of the said Common lying on either Side of the said Canal as are necessary for the full Use, Enjoyment, and Maintenance of the said Canal, not exceeding in the whole Nine Acres, and including a Plot or Parcel of Ground situate near *Rothern Bridge* in the Parish of *Great Torrington* aforesaid, containing Thirty Poles or thereabouts, with free Liberty for the said *John Lord Rolle*, his Heirs and Assigns, to open any Sluices, Watercourses, and Drains from the said Canal in direct Communication with the River *Torrige* there (subject nevertheless to the Right of Way or Passage herein-after mentioned), shall be held by the said *John Lord Rolle*, his Heirs and Assigns, freed and absolutely discharged of all Right and Title of Common and Claim of Right and Title of Common of every Description, and of and from all other Claim of or by all and every Persons and Person whomsoever, the said *John Lord Rolle*, his Heirs or Assigns, paying or tendering to the Churchwardens of the said Parish for the Time being, or any One of them, such Sum of Money as shall be agreed upon or shall be awarded or adjudged in manner herein-after mentioned to be the Value of the Commonable Rights of any Persons whomsoever on the Portion of the said Commons which may have been taken and used for the Purpose of making the said Canal.

Lord Rolle may agree for such Value with Persons appointed by Vestry of Great Torrington.

II. And be it enacted, That it shall and may be lawful to and for the said *John Lord Rolle*, his Heirs or Assigns, to contract and agree with such Person or Persons as a Vestry of the Inhabitants of the Parish of *Great Torrington* aforesaid, to be convened by the Churchwardens specially for that Purpose, may think fit to nominate and appoint, not exceeding Five in Number, for the Purchase of the Commonable Rights, Privileges, and Interests of all Persons upon such Portions of the said Commons called *Great Torrington Common* and *Castle Hill Common* as may have been taken and used for the Purposes of making and maintaining the said Canal; and such Sum as may be so agreed upon shall be by the Churchwardens of the said Parish received, and applied for such general or public Purposes within the said Parish as a Vestry thereof, to be specially convened by such Churchwardens for such Purposes, shall direct.

III. And

III. And be it further enacted, That in case the Churchwardens of the said Parish shall refuse or neglect to summon the said Vestry within Fourteen Days after Request in Writing from the said *John Lord Rolle*, his Heirs or Assigns, or the said Vestry having assembled shall not nominate and appoint such Person or Persons as aforesaid, or such Person or Persons shall not agree with the said *John Lord Rolle*, his Heirs or Assigns, as to the Amount of the Purchase Money or Satisfaction to be paid for such Commonable Rights, Privileges, and Interests, or any Dispute shall arise respecting the same, shall be settled and determined by a Jury in manner herein-after mentioned.

In default of Parish agreeing, to be settled by a Jury.

IV. And be it further enacted, That the Sheriff for the said County of *Devon* is hereby empowered and required, upon the Request in Writing of the said *John Lord Rolle*, his Heirs or Assigns, or the Churchwardens of the said Parish for the Time being, to impanel, summon; and return a Jury of at least Twenty-four sufficient and indifferent Men, qualified according to the Laws of this Realm to be returned for Trials of Issues in His Majesty's Courts of Record at *Westminster*; and the Persons so to be impanelled, summoned, and returned are hereby required to appear before the said Sheriff or his Under-Sheriff at such Time and Place as in such Warrant shall be directed, and to attend from Day to Day until duly discharged; and out of such Persons so to be impanelled, summoned, and returned a Jury of Twelve shall be drawn by the said Sheriff or Under-Sheriff, or by some Person to be by them respectively appointed, in such Manner as Juries appointed for Trials of Issues in His Majesty's Courts of Record at *Westminster* are by Law directed to be drawn; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed as aforesaid such Sheriff or Under-Sheriff shall return other honest and indifferent Men of the Standers-by, or of others that can speedily be procured to attend that Service (being so qualified as aforesaid), to make up the said Jury to the Number of Twelve; and all Parties concerned may have their lawful Challenges against any of the said Jurymen; but shall not challenge the Array; and the said Sheriff or Under-Sheriff is hereby empowered and required to summon before him all Persons who shall be thought necessary to be examined as Witnesses touching the Matter in question, and may authorize or order the said Jury, or any Six or more of them, to view the Place in controversy; and such Jury shall upon their Oaths, or being of the Society of Persons called *Quakers* upon their solemn Affirmations, (which Oaths and solemn Affirmations, as well as the Oaths and solemn Affirmations of all such Persons as shall be called upon to give Evidence, the said Sheriff or Under-Sheriff is hereby empowered and required to administer,) inquire of and assess and give a Verdict for the Sum or Sums of Money to be paid for the Purchase of such Commonable Rights, Privileges, and Interests of all Persons of and in the said Portions of the said Commons which are now taken and used, or are intended to be vested by this Act in the said *John Lord Rolle*, his Heirs or Assigns, for the Purposes of the said Canal; and the said Sheriff or Under-Sheriff shall accordingly give Judgment for such Purchase Money, Satisfaction, or Compensation as shall be assessed by such Jury; which said Verdict, and the Judgment thereon to be pronounced as aforesaid, shall be binding and conclusive to all Intents and Purposes upon the said *John Lord Rolle*, his Heirs and Assigns, and all other

Power to summon a Jury.

other Persons whatsoever: Provided always, that not less than Seven Days Notice in Writing of the Time and Place at which such Jury are so required to be returned shall be given by the said *John Lord Rolle*, to the Churchwardens of the said Parish, by leaving such Notice at the Dwelling House of the said Churchwardens of the said Parish for the Time being.

Verdicts to be recorded.

V. And be it further enacted, That the said Verdict and Judgment, being first signed by the said Sheriff or Under Sheriff present at the taking of such Verdict and pronouncing of such Judgment respectively, shall be by him returned to and shall be kept by the Clerk of the Peace for the said County of *Devon* among the Records of the Quarter Sessions for such County, and shall be deemed Records to all Intents and Purposes, and the same or true Copies thereof shall be allowed to be good Evidence in all Courts whatsoever, and all Persons shall have Liberty to inspect the same, paying for such Inspection the Sum of One Shilling and no more, and also to take and make Copies thereof, and paying for every such Copy after the Rate of Sixpence for every One hundred Words.

Penalty upon Sheriff, Jurors, or Witnesses making default.

VI. And be it further enacted, That if such Sheriff or his Deputy shall make default in the Premises he shall for every such Offence forfeit the Sum of Fifty Pounds; and if any Person so to be summoned and returned upon any such Jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or being of the Society of Persons called Quakers to make his solemn Affirmation, or to give his Verdict, or shall in any other Manner wilfully neglect his Duty, contrary to the true Intent and Meaning of this Act, or if any Person so to be summoned to give Evidence as aforesaid shall not appear, on being paid or tendered a reasonable Sum for his, her, or their Costs and Expences, or appearing shall refuse to be sworn or give Evidence, then and in every such Case every such Person so offending, having no reasonable Excuse (to be allowed by the said Sheriff or Under Sheriff), shall forfeit and pay for every such Offence, for the Benefit of the Party for whom or on whose Account such Jury or Witness shall be summoned, any Sum not exceeding Ten Pounds, to be levied by virtue of any Warrant under the Hand and Seal of any Justice of the Peace for the said County of *Devon*, by Distress and Sale of the Goods and Chattels of the Person so offending, rendering to him the Overplus of the Money thereby produced, after such Penalty and the Charges and Expences of such Distress and Sale shall have been deducted.

Jurors to be under the same Regulations as those in Courts at Westminster.

VII. And be it further enacted, That every such Jury and Jurymen as aforesaid, and any Witnesses summoned before such Jury, shall be liable and subject to the same Regulations, Pains, and Penalties as if such Jury and Jurymen had been returned for the Trial of any Issue joined in any of His Majesty's Courts of Record at *Westminster*, or such Witnesses had been summoned thereon.

By whom Expences of Juries shall be paid.

VIII. And be it further enacted, That in every Case where a Verdict shall be given by any such Jury as aforesaid for the same or more Money than shall have been previously offered or tendered by the said *John Lord Rolle*, his Heirs or Assigns, for the Purchase of the said Portion of the

Commonable Rights, Privileges, and Interest aforesaid, all the Costs incurred in summoning such Jury, and the Expences of Witnesses, shall be borne by the said *John Lord Rolle*, his Heirs or Assigns; and in case such Costs and Expences shall not be paid to the Party or Parties entitled to receive the same within Ten Days after Demand made thereof from the said *John Lord Rolle*, his Heirs or Assigns, then the same shall and may be levied and recovered by Distress and Sale of any Goods and Chattels of the said *John Lord Rolle*, his Heirs or Assigns, on a Warrant to be issued for that Purpose by any Justice of the Peace for the said County of *Devon*, which Warrant any such Justice is hereby authorized and required to issue under his Hand and Seal, on Application made to him for that Purpose by the Party or Person entitled to receive such Costs and Expences; but if the Verdict of the Jury shall be given for a less Sum than shall have been previously offered or tendered by or on behalf of the said *John Lord Rolle*, his Heirs or Assigns, then and in every such Case all the Costs and Charges incurred as aforesaid shall be borne in equal Proportions by the Party or Parties refusing or neglecting to treat or agree as before mentioned, and by the said *John Lord Rolle*, his Heirs or Assigns; and in all Cases where any Difference shall arise touching the Amount of the said Costs the same shall be settled and ascertained by the Sheriff of the said County of *Devon*, who is hereby authorized and required to examine into and tax and settle the same, and to appoint a Time and Place for the Payment thereof; and where the Costs shall be payable by the Party or Parties having had any such Disagreement or Dispute with the said *John Lord Rolle*, his Heirs or Assigns, as aforesaid, the Amount thereof, having been first paid by the said *John Lord Rolle*, may be deducted by him out of the Monies awarded to be paid by such Party or Parties as so much Money advanced for his, her, or their Use; and the Payment or Tender of the Balance or Remainder of such Money shall be deemed and taken, to all Intents and Purposes whatsoever, to be a Payment or Tender of the whole Money awarded and adjudged to such Party or Parties; or otherwise, if such Costs and Charges be not paid upon Demand, after being so ascertained as aforesaid, the same may be recovered by the said *John Lord Rolle*, his Heirs or Assigns, from the Party or Parties liable to the Payment thereof, by Action of Debt or on the Case in any of His Majesty's Courts of Record at *Westminster*, together with full Costs of Suit: Provided always, that all Costs, Charges, and Expences which shall be incurred by the Persons so to be nominated as aforesaid in carrying this Act into execution shall be deducted, and such Persons are hereby authorized and empowered to deduct the same, from and out of any Sum or Sums of Money which may be payable by the said *John Lord Rolle*, his Heirs or Assigns, under any of the Provisions of this Act.

IX. Provided always, and be it further enacted, That there shall be and remain for ever hereafter to the Inhabitants of the said Parish of *Great Torrington* a Right of Way or Passage, with Horses and on Foot, in and over the following Parts of the Towing Paths of the said Canal; (that is to say,) from the Town Bridge to the *Great Torrington* Manor Mills, and with Carts, Carriages, Horses, and on Foot, in, over, and across the said Canal and the Towing Paths thereof, to a Piece of *Great Torrington Common* aforesaid called *Dewslade*, without any Hindrance, Obstruction, or Denial of; from, or by the said *John Lord Rolle*, his Heirs or Assigns, or any Person or Persons claiming or to claim under him or them: Provided nevertheless,

Reservation  
of certain  
Rights of  
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that no Hindrance or Obstruction be offered to the Trade carrying on upon the said Canal, and that no Injury be done to the same Canal, or its Towing Paths or Appurtenances, directly or indirectly, on pain of any Person or Persons offending against this Provision being a Trespasser or Trespassers, and liable to be proceeded against according to Law; and that the said *John Lord Rolle*, or the Owner or Owners of the said Canal for the Time being, shall henceforth repair and keep in repair such Bridges as now exist over such Parts of the said Canal as are situate within the aforesaid Commons called *Great Torrington Common* and *Castle Hill Common*.

Bridges to be erected across the Canal.

X. And be it further enacted, That the said *John Lord Rolle*, his Heirs or Assigns, shall make, erect, and set up such further or other convenient Bridges across the said Portion of the said Canal as passes over the aforesaid Commons as any Justices of the Peace for the said County at their Petty Sessions for the adjoining Limit shall from Time to Time judge necessary, for the Use and Enjoyment of the Inhabitants of the Town of *Great Torrington*, Occupiers of ancient Messuages and Tenements, claiming Rights upon the said Common; and the said Bridges so to be built as aforesaid shall from Time to Time thereafter be supported, maintained, and kept in sufficient Repair by the said *John Lord Rolle*, his Heirs or Assigns; and in case of any Refusal or Neglect of the said *John Lord Rolle*, his Heirs or Assigns, to build, maintain, and keep in repair the said Bridges as aforesaid, as well as the Bridges now existing over the said Canal, it shall be lawful for the Persons, being Inhabitants of the Town of *Great Torrington*, Occupiers of ancient Messuages or Tenements claiming Rights upon the said Commons, or any Six or more of them, at the Expence of the said *John Lord Rolle*, his Heirs or Assigns, to do the several Matters and Things as to which there shall have been such Refusal or Neglect; and in case of Disagreement as to the Amount expended in that Behalf, the same shall be settled and determined by Two or more Justices of the Peace of the said County, who shall order the same to be forthwith paid by the said *John Lord Rolle*, his Heirs or Assigns, and who shall pay the same accordingly; and in default of Payment thereof within the Time limited by such Justices for that Purpose, the said Justices shall, by Warrant under their Hands and Seals, levy the same by Distress and Sale of any of the Goods and Chattels of the said *John Lord Rolle*, his Heirs or Assigns: Provided always, that in case either of the said Parties shall consider himself or themselves aggrieved by any Order made by the said Justices at their Petty Sessions aforesaid, or by the said Two Justices, he or they shall or may appeal to the Justices of the Peace at any General or Quarter Sessions of the Peace to be holden for the said County within Three Calendar Months next after the Cause of Complaint shall have arisen; and the Determination of such Justices at their General or Quarter Sessions shall be binding and conclusive.

Owners of Canal not to retail certain Articles.

XI. Provided nevertheless, and be it further enacted, That it shall not be lawful for the Owner of the said Canal for the Time being, his Heirs or Assigns, by himself and themselves, or his or their Agents, or any one on his or their Behalf, to retail, or sell by way of retail, any manufactured Article within the Parish of *Great Torrington* aforesaid: Provided always, that nothing herein contained shall extend or be construed to extend to Lime, Flour, Coal, Culm, or Timber.

XII. And be it further enacted, That this Act shall be deemed and Public Act. taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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