



ANNO QUINQUAGESIMO PRIMO

# GEORGI III. REGIS.



## Cap. 202.

An Act for increasing the Rates on Coals conveyed on the River *Itchin*, in the County of *Southampton*; and for amending and rendering more effectual the several Acts relating thereto. [26th June 1811.]

**W**HEREAS by an Act, made in the Sixteenth and Seventeenth Years of King *Charles* the Second, intituled, *An Act for making divers Rivers navigable, or otherwise passable for Boats, Barges, and other Vessels, the River Itchin, otherwise Itching, in the County of Southampton, was made navigable and passable, for the Purposes in the said Act mentioned, from a certain Place called Blackbridge, near the City of Winchester, to a certain Place called Woodmill, in the said County: And whereas another Act was made in the Seventh Year of the Reign of His present Majesty, intituled, An Act to explain, amend, and render more effectual an Act made in the Sixteenth and Seventeenth Years of King Charles the Second, intituled, 'An Act for making divers Rivers navigable, or otherwise passable for Boats, Barges, and other Vessels, so far as the same relates to the River Itchin, running from Alresford through Winchester to the Sea, near Southampton, and for better regulating the said Navigation: And whereas an Act was made in the Thirty-fifth Year of the Reign of His present Majesty, intituled, An Act to explain, amend, and render more effectual the several Acts of the Sixteenth and Seventeenth of King Charles the* 16 & 17 C. 2.  
7 G. 3.  
35 G. 3 c. 86.

[Loc. & Per.] 518 Second,



Second, and of the Seventh of His present Majesty, relating to the Navigation of the River Itchin, in the County of Southampton, and for improving the Navigation thereof, and for ascertaining the Rates of Carriage, Riverage, and Wharfage payable thereon: And whereas an Act was passed in the 42G. 3. c. 111. Forty-second Year of the Reign of His present Majesty, intituled, *An Act for explaining, amending, and rendering more effectual several Acts of the Sixteenth and Seventeenth Years of the Reign of King Charles the Second, and of the Seventh and Thirty-fifth Years of the Reign of His present Majesty, relating to the Navigation of the River Itchin, in the County of Southampton:* And whereas the said River has been made navigable for the Purposes, and according to the Directions of the said Acts, and the Works of the said Navigation have been, from Time to Time, improved, amended, and kept in Repair, so far as the Tolls granted by the said Acts would enable the Proprietor or Proprietors thereof so to do; but the said Works, from being principally constructed of Timber, are very liable to Decay, and are at present in an imperfect State, and cannot be put and kept in complete Repair, unless the Rates payable for Coals carried on the said River be increased, and further Powers granted: 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 from and after the passing of this Act it shall and may be lawful to and for the Proprietor and Proprietors of the said Navigation, his, her, or their Heirs or Assigns, and no others, from Time to Time, and at all Times for ever, to ask, demand, receive, take and recover, to and for his, her, or their own Use and Benefit, for the Tonnage of all Coals which shall be navigated, carried on, or conveyed upon, through or over the said Navigation, or any Part thereof, the Sum of One Halfpenny *per Chaldron per Mile*, and so in Proportion for any greater or less Quantity than a Chaldron, or greater or less Distance than a Mile, over and above and in Addition to the Rates already granted by the said recited Acts, or any of them.

Additional  
Rate on  
Coals.

For better  
Recovery of  
Rates.

II. And whereas the Powers contained in the said recited Acts have been found insufficient for the Purposes of recovering the Rates of Tonnage, Riverage, and Wharfage, by the said Acts respectively granted; be it therefore enacted, That from and after the passing of this Act in all Cases where any of the Rates or Tolls granted by this Act, or by the said recited Acts, for Tonnage, Riverage, or Wharfage, shall remain in Arrear and unpaid after the same shall have been lawfully demanded, it shall and may be lawful to and for the Proprietor or Proprietors of the said River, his, her, or their Heirs or Assigns, and to and for the Owners of the Barges and other Vessels navigating thereon, as the Case may be, to seize, stop, detain, or make Stay of any Goods, Wares, or Merchandize, being the Property of any Person or Persons who shall be in Arrear for the said Rates or Tolls, as well for such Arrears as for the Rates or Tolls of the Goods, Wares, or Merchandize that shall be so stopped or detained; and if such Rates or Tolls shall not be paid, together with the Charges of such Seizure, or such Goods or Merchandize shall not be redeemed in Five Days from the Time of such Detention, to sell the same in such Manner as the Law directs in Cases of Distress for Rent.

III. And



III. And whereas in pursuance of the Provisions made by the said Act, River to be passed in the Forty-second Year of the Reign of His present Majesty, large Sums of Money have been laid out in scouring, cleansing, and deepening several Parts of the Navigation of the said River, and in the Repair of the Locks, Sluices, Hatches and other Works thereof; but the same not being yet completed, and it being advantageous, as well to the Proprietor of the said Navigation, as to the Owners and Occupiers of Mills and Meadows, that it should be so completed with as little Delay as possible; be it therefore enacted, That the Proprietor or Proprietors of the said Navigation, his or their Heirs or Assigns, shall, and they are hereby required, within One Year after the passing of this Act, to scour, cleanse, and deepen the said Navigation, by the Removal of Shoals or other Obstructions, and put the said Locks, Sluices, Hatches, and other the Works of the said Navigation, and that have hitherto been used and repaired by the said Proprietor or Proprietors, or that the said Proprietor or Proprietors have been bound, to repair into good and sufficient Repair for the convenient Navigation thereof; and in case the Proprietor or Proprietors, his or their Heirs or Assigns, shall fail or neglect so to do within the Period aforesaid, pursuant to the Directions aforesaid, or in the Event of the same, or any Part thereof, being out of Repair after that Period, shall fail or neglect to repair the same, or such Part thereof as shall be so out of Repair within Two Calendar Months after Notice in Writing, to be given to or left for him or them at his or their Counting-house, at the Wharf, if he or they shall have one there, or at the Dwelling House of any one of the said Proprietors, if there shall be more than One, if the same shall be situate in the City of *Winchester*, or within Fourteen Miles thereof, by any Owner or Occupier of any adjacent Land injured thereby, then, and in every such Case, it shall and may be lawful to and for every or any of the Owners or Occupiers of any adjacent Lands, or any other Person or Persons who shall be injured thereby, who shall have given such Notice as aforesaid, and who shall be aggrieved by any such Failure or Neglect, to cause the said Navigation of the said River to be scoured, cleansed, and deepened in Manner aforesaid; and the said Locks, Sluices, Hatches, and other the Works of the said Navigation as aforesaid, to be well and sufficiently repaired, so as to remove and prevent any Injury and Damage that the said Owners or Occupiers may have sustained thereby, and the Amount of all the Costs, Charges, and Expences which shall, from Time to Time, be paid, sustained or borne by such Owner or Owners, Occupier or Occupiers, in the making and doing thereof, shall be allowed, settled, and ascertained by the Commissioners acting under the Authority of the said recited Acts and this Act, assembled at a Meeting at *Winchester* during the Period herein-after mentioned, or the major Part of such Commissioners, so assembled, or at any other Meeting of the said Commissioners, to be lawfully assembled for that Purpose; and the same Commissioners, or the major Part of them, shall and they are hereby required thereupon to make an Order under their Hands upon the Proprietor or Proprietors of the said Navigation, to pay unto the Party or Parties who shall have paid or sustained such Costs, Charges, and Expences, the full Amount thereof within Three Months after Demand thereof made on the said Proprietor or Proprietors of the said Navigation, or his or their Heirs or Assigns, or any one or more of them;



and if such Amount shall not be accordingly paid within the Time last aforesaid, after such Demand, then and in such Case the same shall and may be recovered in the Manner directed by the said Act of the Forty-second of His present Majesty, saving all prior Claims thereon, or it shall be lawful for the Party or Parties to whom such Amount shall be directed to be paid as aforesaid, to sue for the same by Action upon the Case on Promises in any of His Majesty's Courts of Record at *Westminster*, in which Action the Defendant or Defendants shall not be held to Bail, and in which Action it shall be sufficient to declare that the Defendant being indebted to the Plaintiff in a certain Sum of Money, being the Amount of the same Claim for so much Money paid, laid out, and expended by him for the Use of the Defendant, the Defendant undertook to pay the same, to which Action the Defendant shall plead the General Issue, *Non-Assumpsit*, and thereupon give any Special Matter in Evidence.

Owners of  
Meadows  
may open  
Sluices in  
certain Cases.

IV. And whereas great Injury may arise to such Owners or Occupiers by any sudden breaking down or giving way of the Banks of the said River, or other sudden Irruption of the Water into the Meadows, be it further enacted, That in all and every such Case the Owners or Occupiers of such Meadows shall and may draw up and open the Sluices of the Locks in the Reach where such Irruption shall happen, in order to lay the River sufficiently dry, and to keep the same open until the necessary Repairs and Works shall be done.

Proprietor of  
Navigation  
may stop  
Repairs until  
the Approba-  
tion of the  
Commission-  
ers obtained.

V. Provided always, and be it further enacted, That it shall be lawful for the Proprietor of the Navigation, or any Person having a Barge or Barges at that Time employed thereon, excepting in either of the Events herein-before mentioned, to prohibit any Person from proceeding in the making any such Repair, until the Approbation of Seven at least of the said Commissioners shall have been obtained for that Purpose; but if after any such Prohibition such Approbation shall be obtained, that then the Person or Persons who shall have so prohibited the proceeding in such Repair, shall be answerable for all such Damages as shall have been occasioned on account or in consequence of the Delay which shall have taken place by Means of any such Prohibition, to the respective Person or Persons by whom such Damages shall have been sustained, and the Costs of the Application to the Commissioners, provided that the said Commissioners shall, in all such Cases, think and declare that such Prohibition was unnecessary and improper, under the Circumstances of each Case, such Damages and Costs to be ascertained in such and the same Manner, and by such and the same Means as are in the like Cases provided by any of the former Acts herein-before recited, and the Amount of such Damages and Costs respectively, to be recovered, with Costs of Suit, by the respective Persons to whom the same shall be awarded by the said Commissioners by such and the like Action in all Respects as is herein-before mentioned.

Altering the  
Periods for  
Meetings of  
the Com-  
missioners.

VI. And whereas it will be more convenient that the Meetings of the said Commissioners shall be, in general, held at the same Times that the General Quarter Sessions for the said County are holden, be it further enacted, That instead and in lieu of the General Meetings appointed to be holden  
twice



twice in every Year under the former Acts relative to the said Navigation, the said Commissioners shall and they are hereby required, during the Week in which every General Quarter Sessions of the Peace for the said County of *Southampton* shall be holden, but not during the Time when the said Court of Quarter Sessions shall be actually sitting, to hold a Meeting at the Town Hall of the City of *Winchester*, or at some other convenient Place within the said City, to be by them appointed, and shall and may, at any such Meeting, or any Adjournment thereof, proceed in Execution of the said several Acts and of this Act, as they may think proper: Provided nevertheless, that the said Commissioners shall not at any such Meeting take into their Consideration any Matters in Difference, between the Proprietor or Proprietors of the said Navigation, and any Owner or Proprietor of any Lands lying adjacent or near to the said Navigation, until Fourteen Days Notice in Writing shall have been given by the Party intending to make Application for that Purpose to the other Party, of the Intention to make such Application, in Manner following; that is to say, such Notice, if to be given to the Proprietor or Proprietors of the said Navigation, to be given in the same Manner as is herein-before directed, and if to be given to the Owner or Occupier of any such Lands, to be left at the Dwelling-house of the Occupier; nor shall any General Bye-Law, Order, or Regulation be made, on the Application of the Proprietor or Proprietors of the said Navigation, unless Notice of the Intention to make the same shall have been inserted in some Provincial Newspaper usually circulated in the City of *Winchester*, and also affixed on the Market-Cross in the said City, at least Fourteen Days before such Application shall be made; nor on the Application of any other Person or Persons, unless Notice of the Intention to make the same shall have been, for the like Space of Time given to or left for the said Proprietor or Proprietors, his, her, or their Heirs or Assigns, in Manner aforesaid: Provided also, that no Bye-Law shall be made at any such Meeting, unless Eleven Commissioners shall be present: Provided also, that it shall and may be lawful to and for any Person or Persons who shall think himself aggrieved by the Decision of such Commissioners, to appeal to the next General Quarter Sessions of the Peace to be holden in and for the said County of *Southampton*, giving Ten Days Notice, in like Manner as aforesaid, of such his Appeal, to the Party or Parties in whose Favour such Decision shall have been made, on the Hearing of which said Appeal it shall not be lawful for any Person who shall have acted as a Commissioner at the Time of such Decision, to interfere in or act on the Decision of the Matters of such Appeal: Provided also, that no Matter of Complaint against any Barge Owner or Bargeman employed on the said Navigation, shall be inquired into, investigated, or determined at any Meeting to be so holden at the same Time with the Sessions, but that the same shall be inquired into, investigated, and determined at such Meetings only of the Commissioners as shall be holden agreeably to the Provisions in the former Acts, and as if this Act not been made.

VII. And be it further enacted, That all and every the Powers and Provisions contained in the said recited Acts, shall be used, applied, and construed, so far as the same are not hereby varied, altered or repealed, in like Manner as if the same Powers, Provisions, and Clauses, were repeated and re-enacted in this Act. Extending the Power of former Acts to this Act.

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VIII. And

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51. GEORGII III. Cap. 202.

Public Act,

VIII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.

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