



Dean Forest Act 1819

1819 CHAPTER 86

An Act for regulating the Exercise of the Right of Common of Pasture in the *New Forest*, in the County of *Southampton*; for repealing certain Parts of Two Acts passed in the Thirty-ninth and Fortieth and the Fifty-second Years of His present Majesty; and for the better Collection and Recovery of the *Gale Rents* in the Forest of *Dean*, in the County of *Gloucester*.
[7th July 1819]

WHEREAS considerable Inconvenience and Injury is sustained, and much Damage done to the young Timber and to the Herbage in the *New Forest*, in the County of *Southampton*, by Persons not having Rights of Common in the said Forest turning Horses, Cattle, and other Beasts to depasture in the said Forest, and by other Persons having Rights of Common on the said Forest suffering their Horses, Cattle, and other Beasts to remain thereon during the Winter Season or Hayning-time, contrary to Law; and it is expedient that additional Remedies should be provided to prevent such Damage and Injury: And whereas an Act was passed in the Thirty-ninth and Fortieth Year of His Majesty's Reign, intituled *An Act for the better Preservation of Timber in the New Forest, in the County of Southampton, and for ascertaining the Boundaries of the said Forest and of the Lands of the Crown within the same*: And whereas an Act was passed in the Fifty-second Year of His Majesty's Reign, intituled *An Act for enabling His Majesty to grant Leases under certain Circumstances, and for the better carrying into Effect the Provisions of an Act passed in the Thirty-ninth and Fortieth Year of His present Majesty, touching the Formation of a Map of the New Forest, in the County of Southampton, and continuing and extending other Provisions of the said Act; for further appropriating the Monies arisen or to arise from the Sale of certain Crown Lands under the Authority of divers Acts of Parliament; and for annexing certain Lands within the Forest of Rockingham to His Majesty's Manor of King's Cliffe; and for enabling the Commissioners of the Treasury to appropriate small Portions of Land for Ecclesiastical Purposes*. And whereas it is expedient to repeal so much of the said Acts as subjects the Regarders, Under Foresters, Under Keepers, or other Officers of the said Forests, to Forfeiture and Deprivation of their Offices for the Offences in the said Acts mentioned: And whereas it is necessary to provide for the better Collection and Recovery of the annual Compositions usually called *Gale Rents* or *Gawle Rents*, now due and in Arrear, or which may hereafter become due to His Majesty, in His Majesty's Forest of *Dean*, in the County of *Gloucester*.

Status: This is the original version (as it was originally enacted).

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,

Officers of the New Forest empowered to seize Cattle unlawfully depasturing thereon.

That from and after the passing of this Act it shall and may be lawful for any Regarder, Groom-keeper, Forester, Under Forester, or other Officer of the *New Forest*, in the County of *Southampton*, to seize any Horse, Mare, or Gelding, or any other Cattle or Beast belonging to any Person or Persons not having or being entitled to Rights of Common of Pasture on the said Forest, found depasturing thereon at any Time of the Year; and also to take and seize any Horse, Mare, or Gelding, or any other Cattle or Beast belonging to any Person or Persons having and being entitled to Right of Common of Pasture on the said Forest, which shall be found depasturing therein during the Winter Season or Hayning-time ; (that is to say), between the Twenty-third Day of *November* and the Fourth Day of *May* yearly, and every such Horse, Mare, or Gelding, or other Beast so seized, to impound in New Park or such other Place within the said Forest as the Verderors thereof or any Two of them shall from Time to Time appoint, and every such Horse, Mare, Gelding, or other Beast to keep impounded until redened by the Owner or Owners thereof, on Payment of the Penalties herein-after imposed, and of the Expences (if any) incurred in the Keep of the said Horse, Mare, Gelding, or other Beast.

II Penalties for turning out Beasts to depasture, viz. Persons not having Right of Common to forfeit 10s. for each Beast, and 6d. per Day. For Second Offence, 20s., and 6d. per Day. For Third Offence, 30s., and 6d. per day. Persons having Right of Common turning out Beasts in the Winter Season, to forfeit 7s. for each Beast, and 6d. per Day. For Second Offence 14s., and 6d. per Day. For Third Offence 21s., and 6d. per Day.

And be it further enacted, That the Owner or Owners of every Horse, Mare, Gelding, or other Beast so seized and impounded, shall forfeit and pay the several Penalties following ; (that is to say),

Every Person not having or being entitled to Right of Common of Pasture on the said Forest, who shall be convicted before the Verderors of the said Forest, or any Two of them, or in the Court of Attachments of the said Forest, of turning out or suffering to, depasture in the said Forest at any Time in the Year, any Horse, Mare, Gelding, or other Beast of which such Person shall be the Owner, the Sum of Ten Shillings for each Horse, Mare, Gelding, or other Beast so turned out or found depasturing, and the Sum of Sixpence for each Day such Horse, Mare, Gelding, or other Beast shall be unredeemed by such Person after the same shall be seized and impounded ; and if such Person shall be convicted a Second Time of turning out or suffering to depasture in the said Forest, at any Time of the Year, the same or any other Horse, Mare, Gelding, or other Beast of which such Person shall be the Owner, the Sum of Twenty Shillings for each Horse, Mare, or Gelding, or other Beast so turned out or suffered to depasture, and the Sum of Sixpence for each Day such Horse, Mare, Gelding, or other Beast shall be unredeemed by such Person after the same shall be seized and impounded ; and if such Person shall be convicted a Third Time, or any subsequent Time, of a like Offence, such Person shall forfeit and pay for each Horse, Mare, Gelding, or other Beast so turned out or found depasturing, the Sum of Thirty Shillings, and the further Sum of Sixpence for each Day the same shall be unredeemed :

And every Person having or being entitled to Right of Common of Pasture in the said Forest, who shall be convicted before the Verderors of the said Forest, or any Two of them, or in the Court of Attachments of the said Forest, of turning out or suffering to depasture in the said Forest, during the Winter Season or Hayning-time herein-before specified, any Horse, Mare, Gelding, or other Beast of which such Person shall be the Owner, the Sum of Seven Shillings for each Horse, Mare, Gelding or other Beast so turned out or found depasturing in the said Forest, and the Sum of Sixpence for each Day such Horse, Mare, Gelding, or other Beast shall be unredeemed by such Person, alter the same shall be seized and impounded; and if such Person shall be convicted a Second Time of turning out or suffering to depasture in the said Forest during the Winter Season or Hayning-time, the same or any other Horse, Mare, Gelding, or Beast of which such last mentioned Person shall be the Owner, the Sum of Fourteen Shillings for each Horse, Mare, or Gelding, or other Beast so turned out or found depasturing, and the Sum of Sixpence for each Day, such Horse, Mare, or Gelding, or other Beast shall be unredeemed after being seized and impounded; and if such Person shall be convicted a Third Time, or any subsequent Time, of a like Offence, such Person shall forfeit and pay for each Horse, Mare, Gelding, or other Beast so turned out or found depasturing during the Winter Season or Hayning-time, the Sum of Twenty-one Shillings, and the further Sum of Sixpence for each Day the same shall be unredeemed after being seized and impounded.

III Penalties how to be recovered.

And be it further enacted, That all the said Penalties hereinbefore imposed shall and may be recovered before the Verderors of the said Forest, or any Two of them, or in the Court of Attachments of the said Forest; and in case any Penalty or Penalties so recovered shall not be paid forthwith, it shall be lawful for the Verderors of the said Court before whom such Penalty shall be recovered, or any Two of the Verderors, by Warrant under their Hands and Seals, and directed to the Officer or Officers appointed or to be appointed to execute the Judgments and Orders of the said Court for the said Forest, to cause the Horse, Mare, Gelding, or other Beast in respect of which such Penalty or Penalties shall be recovered, to be publicly sold, and the Amount of such Penalty or Penalties recovered, together with the Costs of Sale, to be retained and paid out of the Proceeds of such Sale, returning the Overplus (if any) to the Owner of the Horse, Mare, Gelding, or other Beast so sold; and in case the Sum or Sums of Money obtained from the Sale of any Horse, Mare, Gelding, or other Beast, shall not be sufficient to satisfy the Amount of the Penalty or Penalties recovered against the Owner or Owners thereof, it shall and may be lawful for the Verderors of the said Forest, or any Two of them, by Warrant under their Hands and Seals, directed as aforesaid, to cause the Remainder of such Penalty or Penalties to be levied by Distress and Sale of the Offender's Goods and Chattels, together with all Costs and Charges attending such Distress and Sale, returning the Overplus (if any) on Demand, to the Owner of such Goods and Chattels.

IV Owners of Beasts, on paying the Penalty, &c may have their Beasts returned to them.

Provided always, and be it enacted, That if the Owner of any Horse, Mare, Gelding, or other Beast so impounded as aforesaid, shall forthwith on Conviction pay the Penalties aforesaid in respect of the same, together with the Costs (if any) of the Keep thereof, then and immediately on such Payment, such Horse, Mare, Gelding, or other Beast so impounded shall be restored to the Owner or Owners thereof.

V Application of Penalties.

And be it further enacted, That all the said Penalties hereinbefore imposed shall, when recovered, be by the Verderors or other Person or Persons receiving the same, forthwith paid over to the Under Steward of the said Forest, to be applied in defraying the Expences attending the Execution of any Laws relating to the said Forest, as the Verderors of the said Forest, or any Two or more of them, shall at a Court of Attachments of the said Forest direct: Provided always, and it is hereby declared, that nothing herein contained shall extend, or be construed, deemed or taken to extend, to repeal or annul any of the Laws now existing in regard to the Exercise of the Right of Common of Pasture, or any other Rights of Common in or upon the said Forest; but that all such Laws shall remain and continue in full Force and Effect, and shall and may be carried into Execution in such and the like Manner as if this Act had never been passed.

VI Repealing such Part of 39 & 40 G.3 c.86 and 52 G.3 c.161 as subjects certain Officers to Forfeiture and Deprivation of Office. But Verderors may fine Regarders, Under Foresters, &c. for Misconduct, not exceeding 10l.

And be it further enacted, That so much of the said recited Acts of the Thirty-ninth and Fortieth and Fifty-second Years of His Majesty's Reign, as subjects certain Officers therein mentioned to Forfeiture and Deprivation of their Offices for the Offences in the said Acts mentioned, shall be and the same is and are hereby repealed and made void: Provided always, and it is hereby declared, that nothing herein contained shall extend or be construed, deemed, or taken to extend, to repeal or annul so much of the said Acts, or either of them, as enacts that it shall be lawful for the Verderors of the said Forest, or any Two of them, to enquire into the Conduct and Behaviour of the Regarders, Under Foresters, Groom-keepers, or other Officers of the said Forest in the said Offices, and that if the said Verderors shall find that any of the said Regarders, Under Foresters, Groom-keepers, or other Officers have been guilty of any of the Offences in the said Acts mentioned, that then and in such Case it shall be lawful for the said Verderors or any Two of them, (having due Proof made before them on Oath of any such wilful Act, Neglect, Omission, or Default in the said Acts mentioned), to set and impose a Fine not exceeding the Sum of Ten Pounds on such Regarder, Under Forester, Groom-keeper, or other Officer for every such his wilful Act, Neglect, Omission, or Default, to be received and applied as therein mentioned, but that all such Powers shall remain and continue in full Force and Effect, and shall and may be carried into Execution in such and the like Manner as if this Act had never been passed.

VII Principal Gaveller of Dean Forest may distrain for Gale Rents or Gawle Rents, due to His Majesty.

And be it further enacted, That it shall and may be lawful for the Person who now does or who shall be appointed to and hold the Office of Gaveller or Keeper of the Gawle, called *The Gawle above the Wood*, within the Forest of *Dean*, in the County of *Gloucester*, and the Office of Keeper of the *Gawle under the Wood*, within the said Forest for the Time being, from and after the passing of this Act, to recover and levy any Sum or Sums of Money now due and owing, or which shall hereafter become due and payable to His Majesty, from any Person or Persons, for and in respect of the annual Compositions usuale called *Gale Rents* or *Gawle Rents* an, payable within said forest, by Distress and Saloe of the Goods and Chattels of the Person or Persons from whom such Compositions are or shall be due and owing, wheresoever the same shall be found, together with the Costs and Charges of such Distress and Sale, as in

the Nature of a Distress for Rent; and in case the Goods and Chattels distrained shall be replevied by the Owner or Owners thereof, and a Suit or Action in Replevin shall be brought, and prosecuted or commenced against the said Gaveller, or the Person or Persons making such Distress, it shall and may be lawful for the Person holding the said Office of Gaveller to plead to the said Action, or to avow the taking the said Goods and Chattels, and for the Person or Persons making such Distress to make cognizance as the Bailiff of the said Gaveller for the Time being for the making the said Distress, alleging in such Avowry or Cognizance, that the said Distress whereof the Plaintiff or Plaintiffs complained, was made by Authority of and according to the Purport of this Act, for so much Gale Rent or Gawle Rent due from the Plaintiff to the said Gaveller, as Gaveller of the Forest of *Dean*, without expressing or rehearsal of any other Matter; to which Avowry or Cognizance the Plaintiff shall be admitted to plead that the Defendant did take the said Distress of his own wrong, without any such Cause alleged by the Defendant ; whereupon the Issue in such Action shall be joined, and upon the Trial of that Issue the whole Matter to be given by both Parties in Evidence according to the very Truth of the same.

VIII The Gaveller may recover the Gale Rent or Gale Money by Action in a Court of Record.

And be it further enacted, That it shall and may be lawful for the Principal Gaveller for the Time being of the said Forest of *Dean*, to sue for and recover any Arrears or Sums now due, or at any Time hereafter to grow or become due, from any Person or Persons for and in respect of any such Compositions as aforesaid, in any of His Majesty's Courts of Record; and all such Actions shall be brought in the Name of the Principal Gaveller for the Time being of the said Forest of *Dean* ; and in all such Actions it shall be sufficient for the Plaintiff to declare that the Defendant or Defendants is or are indebted to him the said Plaintiff as Principal Gaveller of the Forest of *Dean*, for so much Money due and owing as Gale Rent or Gawle Rent, from the Defendant or Defendants to the Plaintiff as such Principal Gaveller, without setting forth any other Special Matter; and no such Action or Suit shall abate or be discontinued by the Death or Removal of the Person in whose Name the same shall be so brought or commenced.

IX The Gaveller to recover the Money for the Use of His Majesty, and to account for and apply the same as he is now bound to do.

Provided always, and be it further enacted, That all Sum and Sums of Money to be recovered by the Person being Principal Gaveller of the said Forest of *Dean*, either by Distress or Action, under the Authority of this Act, for any such Compositions as afore said, shall be recovered for the Use of His Majesty, and shall be accounted for and applied by the said Gaveller, as he is now bound by Law to account for and apply all Gale Rent or Gale Money received by him.

X Not to prevent proceeding by Information, for recovering Compositions or Arrears thereof.

Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to prevent His Majesty, His Heirs or Successors, from proceeding by Information in His Court of Exchequer, or any other Court, for the recovering of any such Compositions as aforesaid, or any Arrears thereof, in any Cases in which it shall be thought expedient so to do.

Status: This is the original version (as it was originally enacted).

XI Limitation of Actions. Treble Costs.

And be it further enacted, That if any Action or Suit shall be brought or commenced against any Person or Persons, for any Thing by him or them done or executed in pursuance of this Act, either in the *New Forest* or the said Forest of *Dean*, such Action or Suit shall be commenced within Three Calendar Months next after the Matter or Thing done, and shall be laid in the proper County ; and the Defendant or Defendants in such Action may plead the General Issue, and give the Special Matter in Evidence for his or their Defence; and if upon a Trial a Verdict shall pass for the Defendant or Defendants, or the Plaintiff or Plaintiffs become nonsuited, or discontinue his, her, or their Action or Prosecution, or Judgment shall be given against him, her, or them, upon Demurrer or otherwise, then such Defendant or Defendants shall have Treble Costs awarded to him or them against such Plaintiff or Plaintiffs.