



ANNO QUADRAGESIMO NONO

# GEORGI II. REGIS.

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## Cap. 72.

An Act for amending, altering, and enlarging the Powers of the several Acts relating to the *Warwick* and *Napton* Canal Navigation. [20th May 1809.]

**W**HEREAS an Act was passed in the Thirty-fourth Year of the Reign of His present Majesty, intituled, *An Act for making and maintaining a navigable Canal out of and from the Warwick and Birmingham Canal now cutting or intended to be cut in the Parish of Budbrooke, in the County of Warwick, into the Oxford Canal in the Parish of Braunston, in the County of Northampton*: And whereas an Act was passed in the Thirty-sixth Year of the Reign of His present Majesty, intituled, *An Act for authorizing the Company of Proprietors of the Warwick and Braunston Canal Navigation to vary the Course of a certain Part of the said Canal, and for amending and altering the Act made in the Thirty-fourth Year of the Reign of His present Majesty for making the said Canal*: And whereas the said Canal hath been completed and finished, but the said Acts are in some respects found defective and insufficient for the several Purposes thereby intended, and it is expedient that the Powers and Provisions thereof should be altered, amended, and enlarged: 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 the said recited Acts, made in the Thirty-fourth and Thirty-sixth Years of the Reign of His present Majesty, for making and maintaining a navigable Canal, from the *Warwick* and *Birmingham* Canal into the *Oxford* Canal, and all

34 G. 3. c. 38.

36 G. 3. c. 95.

[Loc. & Per.]

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and

and every the Tolls, Duties, Clauses, Powers, Exemptions, Rules, Regulations, Remedies, Penalties, Forfeitures, Articles, Matters, and Things whatsoever therein contained (save and except such Parts of the same as are by this Act varied, altered, or repealed), shall be and the same is and are hereby declared to be in full Force and Effect, and shall be as good, valid, and effectual for carrying the several Purposes of this Act into Execution, in as full, ample, and beneficial Manner, to all Intents and Purposes whatsoever, as if the same had been repeated and re-enacted in the Body of this present Act.

Certain  
Parts of  
34 G 3. c. 38.  
repealed.

II. And be it further enacted, That so much of the said recited Act, made in the Thirty-fourth Year of His present Majesty, as declares, that every Boatman or other Person navigating any Boat or other Vessel upon the said Canal through any Lock to be made thereon, should in going down the same shut the lower Gates of such Lock before he should draw the Cloughs of the upper Gates thereof; and after he or they should have brought his or their Boat or other Vessel into the said Lock, should shut the upper Gates before he or they should draw the Cloughs of the lower Gates thereof; and in all dry Seasons, when there should be a Scarcity of Water in the said Canal, the Vessel going up the same, if within Sight of and at a Distance not exceeding Three hundred Yards below the Lock, should pass through the same before the Vessel coming down, and then the Vessel next above such Lock should come down, and if there were more Vessels than One below and One above any Lock at the same Time, and in such dry Seasons within the Distance aforesaid (such Distance should be distinguished by a Post or Mark to be set up or made for that Purpose), such Vessels should go up and come down at such Lock by Turns as aforesaid, until all the said Vessels going up or coming down should have passed, by which Means One Lockfull of Water might serve Two Vessels; and if any Persons should act contrary to the Rules therein-before laid down, and should be convicted thereof before any Justice of the Peace, upon the Oath of any credible Witnesses, as also the Master or other Person having the Command of such Boat or Vessel, should forfeit the Sum of Forty Shillings, shall be and the same is hereby repealed and declared to be null and void to all Intents and Purposes whatsoever.

Persons navigating Boats and passing through Locks, to shut the lower Gates before drawing the Paddles or Sluices of the upper Gates.

III. And be it further enacted, That from and after the passing of this Act, every Boatman or other Person navigating or having the Care of any Boat or Vessel, in going down the said Canal from a higher to a lower Level, shall, previously to his bringing his Boat or Vessel into any Lock, shut the lower Gates of such Lock, and the Paddles or Sluices thereto belonging, before he shall draw the Paddles or Sluices of the upper Gates thereof; and after he shall have guided or brought his Boat or Vessel into the said Lock, he shall then shut the upper Gate thereof, and the Paddles or Sluices thereto belonging, before he shall draw the Paddles or Sluices of the lower Gates thereof; and in going up the said Canal from a lower to a higher Level, such Boatman or other Person shall first guide his Boat or Vessel into the said Lock, and carefully shut the lower Gates thereof, and the Paddles or Sluices thereto belonging, before he shall draw the Paddles or Sluices of the upper Gates thereof; and as soon as he shall have passed with his Boat or Vessel out of the said Lock, such Boatman or other Person shall securely shut the upper Gate thereof, and the Paddles or Sluices thereto belonging; and at all Times Boats or Vessels going up  
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the said Canal, if within Sight of any Boat or Vessel coming down, and at a Distance not exceeding Two hundred Yards below any Lock, shall pass through such Lock before the Boat or Vessel coming down, and then the Boat or Vessel above such Lock shall come down; and if there shall be more Boats or Vessels than One below and One above any Lock at the same Time, within the Distance aforesaid, such Boats or Vessels shall go up and come down through such Locks by Turns as aforesaid, until all the Boats or Vessels going up or coming down shall have passed the same, in order that One Lockfull of Water may serve Two Boats or Vessels; and if any Person or Persons shall offend against any such Provision or Provisions, Rule or Rules, Regulation or Regulations, for entering or passing any such Lock or Locks, or for opening or shutting any Gate or Gates thereof, or for drawing or shutting the Paddles or Sluices thereof, or any of them, then and in every such Case every such Person shall for every such Offence forfeit any Sum not exceeding Five Pounds.

IV. And be it further enacted, That if any Person or Persons shall wantonly or unnecessarily open or draw, or cause to be opened or drawn any Lock, Paddle, Sluice, or Valve belonging to the said Canal, or when necessarily emptying a Lock for the Purpose of passing into or entering the same, shall neglect to shut the Top Gates thereof, and the Paddles or Sluices thereto belonging, before he shall draw the Paddles and Sluices of the Bottom Gates thereof, or any of them, or shall wilfully flush or draw off, or cause to be flushed or drawn off the Water from any Part of the said Canal, or shall leave any Gate, Paddle, or Sluice of any Lock open after any Boat or Vessel shall have passed through the same (except in such Cases as are otherwise ordered), he or they shall forfeit for every such Offence any Sum not exceeding Five Pounds.

Penalty on Persons wantonly opening Locks, &c.

V. And whereas it was by the said Act passed in the Thirty-fourth Year of His present Majesty enacted and provided, that no Boat or other Vessel of less Burthen than Twenty Tons should pass through any of the Locks of the said Navigation without the Consent of the said Company of Proprietors, or their principal Agent for the Time being, in Writing first had and obtained: And whereas a Doubt has arisen, whether a Boat or Vessel, not actually laden to the Amount of Twenty Tons, may pass through any of the said Locks: And whereas it would occasion very great Waste of Water, and be very prejudicial to the said Navigation, if all Boats or other Vessels not actually laden to the Amount of Twenty Tons were permitted to pass; be it therefore enacted, That no Boat or other Vessel not actually and *bonâ fide* laden to the Amount of Twenty Tons, shall pass through any of the Lock or Locks of the said Navigation, without the Consent of the said Company or their principal Clerk or Agent first had and obtained, except Boats or other Vessels, the Whole or the greater Part of the Cargo whereof shall consist of Light Goods, Merchandize, or other Light Articles: Provided always, that nothing herein contained shall restrain the passing of any Boat or other Vessel not so laden to the Amount of Twenty Tons, if the Owner or Owners, or other Person or Persons navigating such Boat or other Vessel shall pay Tonnage Rates to the same Amount as if such Boat or other Vessel were laden with Twenty Tons of Coals, Goods, Wares, Merchandize or other Things, (except Lime and Limestone) according to the Provisions in that respect contained in the said last recited Act.

Explaining Doubts as to certain Vessels passing through Locks.

V. And

For prevent-  
ing Frauds in  
loading  
Goods, &c.

VI. And whereas Frauds are often practised or attempted to be practised on the said Company of Proprietors, by loading and unloading Goods and Merchandises at improper Places in a clandestine Manner; be it therefore enacted, That if any Person or Persons navigating or having the Care of any Boat or other Vessel upon the said Canal, or any Part thereof, shall, with Intent to avoid the Payment of the Tolls, Rates, or Duties due and payable to the said Company of Proprietors, load, unload, or take into any Boat or other Vessel any Goods, Wares, Merchandises, or Commodities whatsoever, liable to pay any of the Tolls, Rates, or Duties due and payable to the said Company by virtue of the said recited Acts, or any of them, at any other Place or Places then at the public or private Wharfs or Quays upon or belonging to the said Canal, without first having obtained a Consent in Writing for that Purpose from the Committee of the said Company, or some or One of the Agents or Collectors of the said Company of Proprietors duly authorized for that Purpose, or if any Person shall do any other Act with Intent to evade the Payment of any such Tolls, Rates, or Duties, then and in every such Case every such Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Repealing the  
Power of  
holding a  
certain Num-  
ber of Shares.

VII. And be it further enacted, That so much of the said recited Act, made in the Thirty-fourth Year of the Reign of His present Majesty, as declares that no Person subscribing to the said Undertaking, or becoming a Proprietor in such Navigation, should become a Proprietor of more than Fifteen Shares, either in his own Name or in the Name or Names of any other Person or Persons in Trust for him, upon Pain of forfeiting to the said Company of Proprietors, their Successors and Assigns, all such Shares exceeding Fifteen Shares, shall be and the same is hereby repealed and declared to be null and void to all Intents and Purposes.

For autho-  
rizing Pro-  
prietors to  
hold any  
Number of  
Shares, and  
to vote for  
Thirty-five of  
them.

VIII. And be it further enacted, That from and after the passing of this Act, it shall be lawful for any Person now being or who shall hereafter become a Proprietor of Shares in the said Canal Navigation, to hold and be possessed of any Number of Shares therein, and to vote at every General or Special Meeting or Assembly of the said Company of Proprietors, either in Person or by Proxy, for any Number not exceeding Thirty-five of such Shares, any Thing in the said recited Acts, or either of them, or in this Act contained, to the contrary notwithstanding.

Application of  
Compensation  
Money when  
exceeding  
200l.

IX. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Hereditaments purchased, taken, or used by virtue of the Powers of the said recited Acts or of this Act, or any of them, for the Purposes thereof, which shall belong to any Corporation, Feme Covert, Infant, Lunatic, or Person or Persons under any Disability or Incapacity as in the said Acts or any of them is or are mentioned, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account *ex parte* "The Company of Proprietors of the *Warwick* and *Napton* Canal," together with the Names of Three of the Commissioners for executing the said Acts and this Act, to the Intent such Money shall be applied, under the Direction and with the Approbation of  
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the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way, by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrance or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Intents, and Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, and Hereditaments which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing, undetermined, and capable of taking Effect; and in the mean Time, and until such Purchase shall be made, the said Money shall, by Order of the Court of Chancery, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities; and in the mean Time and until the said Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments so hereby directed to be purchased, in case such Purchase or Settlement were made.

X. Provided always, and be it further enacted, That if any Monies so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments purchased, taken, or used for the Purposes of the said Acts, or any of them, or of this Act, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments, so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank of *England*, in the Name and with the Privity of the said Accountant General of the High Court of Chancery, and be placed to his Account as aforesaid, in order to be applied in Manner herein-before directed, or otherwise the same shall be paid at the like Option, to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Two or more of the said Commissioners (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties), in order that such Principal Money, and the Dividends arising therefrom, may be applied in Manner herein-before directed, so far as the Case shall be applicable, without obtaining or being required to obtain the Direction or Approbation of the Court of Chancery.

[*Loc. & Per.*]

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XI. Provided

Application where the Compensation is less than 200l. and exceeds 20l.

Application where the Money is less than 20l.

XI. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as next before mentioned, shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used for the Purposes of this Act, as the said Commissioners or any Two or more of them shall think fit; or in case of Infancy, or Lunacy, then to his or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not making out Titles;

where Persons cannot be found, &c.

subject to the Order of the Court of Chancery.

Cashier of the Bank to give a Receipt for such Money.

Respecting disputed Titles.

XII. And be it further enacted, That in case the Person or Persons to whom such Sum or Sums of Money shall be so ordered to be paid as aforesaid, shall not be able to make a good Title to the Premises, to the Satisfaction of the said Commissioners or any Two of them, or shall refuse to execute such Conveyance or Conveyances; or in case such Person or Persons to whom such Sum or Sums of Money shall be so ordered to be paid as aforesaid, cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Hereditaments, be not known or discovered; then and in every such Case it shall be lawful for the said Commissioners, or any Two or more of them, to order the said Sum or Sums so awarded to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account to the Credit of the Parties interested in the said Lands, Tenements, and Hereditaments [*describing them*], subject to the Order, Controul, and Disposition of the said Court; which said Court, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Motion or Petition, shall be and is hereby empowered, in a summary Way of Proceeding or otherwise, as to the said Court shall seem meet, to order the same to be laid out and invested in the Public Funds, or to order Distribution thereof, according to the respective Estate or Estates, Title or Interest, of the Person or Persons making Claim thereunto, and to make such other Order in the Premises, as to the said Court shall seem just and reasonable; and the Cashier and Cashiers of the Bank of *England*, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

XIII. Provided always, and be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery, in pursuance of this Act, for the Purchase of any Lands, Tenements, or Hereditaments, to be purchased in pursuance thereof, or to any Bank Annuities to be purchased with any such Money, or to the Dividend or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Hereditaments at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according

according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Hereditaments, or to some Estate or Interest therein.

XIV. Provided also, and be it further enacted, That where, by reason of any Disability or Incapacity of the Person or Persons, or Corporation, entitled to any Lands, Tenements, or Hereditaments, to be purchased under the Authority of this or the said recited Acts, the Purchase Money for the same shall be required to be paid into the said Court, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the like Uses in pursuance thereof respectively, it shall be lawful for the said Court to order the Expences of all Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expences as the Court shall deem reasonable, together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Company of Proprietors, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

Expences of  
of Purchases  
and investing  
the Money  
how to be  
paid.

XV. 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.

Public Act.

