



ANNO QUINQUAGESIMO QUINTO

GEORGI III. REGIS.

Cap. xxxix.

An Act to amend several Acts of His present Majesty,
for making the *Stratford upon Avon Canal Navigation*.
[12th May 1815.]

WHEREAS an Act was passed in the Thirty-third Year of the
Reign of His present Majesty, intituled, *An Act for making and* 33G.3.c.112.
maintaining a Navigable Canal from the Worcester and Birmingham
Canal Navigation, in the Parish of King's Norton, into the Borough of
Stratford upon Avon, and also certain collateral Cuts from the said in-
tended Canal: And whereas another Act was passed in the Thirty-fifth
Year of the Reign of His present Majesty, intituled *An Act for making* 35G.3.c.72.
a Navigable Cut from the Stratford upon Avon Canal, in the Parish of
Lapworth, into the Warwick and Birmingham Canal, in the Manor of
Kingswood, in the County of Warwick: And whereas another Act was
passed in the Thirty-ninth Year of the Reign of His present Majesty, in-
tituled *An Act for authorizing the Company of Proprietors of the Stratford* 39G.3.c.60.
upon Avon Canal Navigation, to vary the Course of certain Parts of the
said Canal, directed to be made by an Act passed in the Thirty-third Year of
the Reign of His present Majesty; and also to make a Branch out of the said
Canal; and also to vary the Course of a Navigable Cut directed to be made
from the said Stratford upon Avon Canal, in the Parish of Lapworth, into
the Warwick and Birmingham Canal, in the Manor of Kingswood, in the
County of Warwick, by another Act passed in the Thirty-fifth Year of the
Reign of His present Majesty, and for amending the said Acts: And whereas
another Act was passed in the Forty-ninth Year of the Reign of His pre-

[Local.]

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49 G. 3. c. 42.
Recital of
33 G. 3. c. 112.

sent Majesty, intituled, *An Act to amend and enlarge the Powers of the several Acts relating to the Stratford upon Avon Canal Navigation*: And whereas by the said Act passed in the Thirty-third Year of the Reign of His present Majesty it is enacted, that nothing in the said Act contained shall extend to authorize or empower the said Company of Proprietors, or any Person acting under their Authority, to take or use, for supplying the said Canal, any Water from or out of the Brooks or Rivers *Rea, Cole, and Blyth*, or any or either of them, or from and by Means of which the said Rivers or Brooks called *Rea, Cole, and Blyth*, any or either of them, are or is supplied with Water, or to divert, alter, or change the Course of any such Rivulet, Brook, Stream, or Watercourse; but that in all Cases where the intended Canal shall be carried across any such Rivulet, Brook, Stream, or Watercourse, the said Company of Proprietors shall, at their own Expence, make and lay proper Tunnels, Pipes, or Trunks, with the Bore or Cavity thereof of sufficient Dimensions to carry and convey all the Water of such Rivulet, Brook, Stream, or Watercourse, under or over the said Canal, so that the same may run and flow in its usual and common Course, as well when swelled by Rains as at all other Times; and that nothing therein contained shall hinder or prevent the said Company of Proprietors from having and taking, for the Use and Supply of the said Navigation, any Springs which may happen to arise in the Bed of the said Canal and collateral Cuts or any of them: And whereas the said Company of Proprietors find it expedient, for the Purposes of better supplying Part of the said Canal with Water, to form and make, under the Powers given them by the said recited Acts, One or more Reservoir or Reservoirs upon Part of certain Land: called *Earl's Wood*, in the Parish of *Tax-worth*, in the County of *Warwick*, or on Lands adjoining thereto: And whereas in wet and rainy Seasons One or more small Stream or Streams of Water flow or pass through or over Part of the said Lands called *Earl's Wood*, into the said Brooks or Rivers *Rea, Cole, and Blyth*, or one of them; and the said Lands called *Earl's Wood*, in wet Seasons, are at Times very much overflowed with Water, which greatly damages the said Lands, as well as the Lands adjoining thereto, without being in any Respect beneficial to the said Brooks or Rivers; and it is desirable that the said Company of Proprietors should be enabled to turn or divert in a small Degree the Course of such Streams of Water, and to use, for the Purposes of the said Navigation, the Flood Waters which arise upon or overflow the said Lands called *Earl's Wood*, and the Lands adjoining thereto, in wet Seasons and Times of Flood; and it is also expedient that so much and such Parts of the said recited Acts as restrain or prohibit the said Company of Proprietors from diverting any Streams or Course or Waters which arise or flow in, over, or through the said Lands called *Earl's Wood*, and as may be construed to restrain or prohibit the said Company of Proprietors from using any such Flood Waters as aforesaid, should be repealed: And whereas the Powers and Provisions of the several recited Acts have in other respects been found insufficient and inconvenient; and it is requisite that the same should be altered and amended; 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 so much and such Parts of the said recited Act of the Thirty-third Year of the Reign of His present Majesty as enacts, that the said Company of Proprietors shall not take or use any Water by

means

The Com-
pany's Inten-
tion to make
Reservoirs on
Lands called
Earl's Wood,

which are in
wet Seasons
flooded with
Water.

Diverting
Streams of
Water upon
Lands called
Earl's Wood.

Repeal of
certain Parts
of 33 G. 3.
restraining

means of which the said Rivers or Brooks called *Rea*, *Cole*, or *Blyth*, or any or either of them, is or are supplied with Water; and as enacts, that the Company of Proprietors shall not divert, alter, or change the Course of any Rivulet, Brook, or Stream of Water, from or by Means of which the said Rivers or Brooks, called *Rea*, *Cole*, or *Blyth*, is or are supplied with Water, or take or use any such Waters for the Purposes of the said Canal; shall, from and after the passing of this Act, so far as such Enactments may be construed to apply or extend to any Rivulet, Brook, or Stream of Water passing in, over, or through, or arising or being in or upon any of the said Lands called *Earl's Wood*, in the said Parish of *Tanworth*, be, and the same is and are hereby repealed; and thenceforth it shall and may be lawful for the said Company of Proprietors, their Agents, Servants, and Workmen, from Time to Time as Occasion may require, to divert, alter, or change, in Manner hereinafter mentioned, the Course of any Rivulet, Stream, or Watercourse, which might otherwise run in, over, or through any of the said Lands called *Earl's Wood*, or the Lands adjoining thereto, into the said Rivers *Rea*, *Cole*, and *Blyth*, or either of them, and into and through any other Lands in the said Parish of *Tanworth*; the Consent in Writing of the Owner or Owners of all such Lands into or from which any such Streams of Water may be diverted or carried, being first had and obtained for that Purpose: Provided always, that the said Streams of Water be made to run and flow, as heretofore, into the said Rivers *Rea*, *Cole*, and *Blyth*, or either of them, as well and effectually as if the Course thereof had not been altered or diverted.

the Company from diverting Water Streams, as far as regards the Lands called Earl's Wood.

Empowering Company to divert Streams on Earl's Wood, with Consent of Owners;

but not to prejudice Rivers *Rea*, *Cole*, or *Blyth*.

II. Provided also, and be it further enacted, That for the better ascertaining the Surplus or Flood Waters which the said Company of Proprietors shall be authorized to take by virtue of this Act, One Engineer, or other proper Person, shall be appointed by and on Behalf of the Majority of the Owners and Occupiers of the several Mills upon the said Rivers *Blyth* and *Cole*, and other Persons interested in the same Rivers; and another Engineer, or other fit and proper Person, by and on the Behalf of the said Company of Proprietors; and such Persons to be so appointed shall and they are hereby required to examine the Height and State of the Rivulet or Rivulets, Stream or Streams of Water which fall into the said Rivers *Blyth* and *Cole*, and which will be affected by the making of the said intended Reservoir or Reservoirs in ordinary Seasons; and to ascertain and determine the Place or Places where a proper Gauge or Gauges, Weir or Weirs shall be placed thereon, or upon the Aqueducts or Feeders conducting such Surplus or Flood Waters from thence to or into the said Canal, or to or into any Reservoir or Reservoirs, or other Works for supplying the said Canal and Cut with Water, and the Plan, Nature, Construction, Dimensions, and Levels of such Gauge or Gauges, Weir or Weirs, for the Purpose of discharging such Surplus or Flood Waters into the said Canal, or the Reservoir or Reservoirs belonging thereto, from the said Rivulet or Rivulets, Stream or Streams of Water, and for preventing any of the ordinary Quantity of Water therein from being taken therefrom; and also to ascertain the Means of guarding and protecting such Gauge or Gauges, Weir or Weirs; and if such Two Engineers, or other Persons so to be appointed as aforesaid, shall not within Six Calendar Months from and after their being so appointed, agree touching the Plan, Situation, Nature, Construction, Dimensions, and Levels of such Gauge or Gauges, Weir or Weirs respectively, and the Means

For ascertaining Surplus or Flood Waters.

Means of guarding and protecting the same, then the said Engineers or other Persons shall, and they are hereby required, within the Space of Twenty-one Days afterwards, to refer the Matter or Difference to some other Engineer or other proper Person to be by them appointed for that Purpose, who shall, and he is hereby required to determine and settle the same within Three Calendar Months after he shall be so appointed, which Engineers or other Persons so to be appointed as aforesaid shall be paid for their Trouble and Attendance for the Purposes aforesaid, by the said Company of Proprietors.

In case of Non-appointment the Company to appoint their own Engineer.

III. Provided nevertheless, and be it further enacted, That in case the said Owners or Occupiers of Mills interested in the said Rivers *Blyth* and *Cole*, shall not within Two Calendar Months after Notice shall have been given to or left at the usual Place of Abode of the Occupiers of all the said Mills, and also published in one of the *Birmingham* Newspapers, requiring them so to do, appoint an Engineer, or fit and proper Person, on their Part, for the Purposes aforesaid; or if after such Person is so appointed he shall not agree with the Person to be appointed on the Part of the said Company of Proprietors, and shall refuse or neglect to appoint an Umpire or third Person as hereinbefore mentioned, then and in such Case it shall be lawful for the said Company of Proprietors, and they are hereby required to appoint their own Engineer for such Purposes; and it shall be lawful for such last-mentioned Engineer alone, and he is hereby required to fix and regulate such Gauge or Gauges, Weir or Weirs as aforesaid, in the same Manner as if the same were fixed and regulated by such Engineers, or other Persons as aforesaid, jointly and together.

For ascertaining what shall be called Flood Waters.

IV. And be it further enacted, That when the Water in the said Rivulet or Rivulets, Stream or Streams, shall by Floods, or the Downfall of Showers, or from any other Cause, be raised or increased beyond the ordinary Quantity, and shall be above the Height of such Gauge or Gauges, Weir or Weirs, such Increase shall be considered and taken as Surplus or Flood Water; and it shall be lawful for the said Company of Proprietors and they are hereby authorized from Time to Time to take such Surplus or Flood Waters therefrom respectively, as shall be necessary for the Purposes of the said Navigation.

Recital of 49 G. 3. and Repeal of such Parts of it as refer to the enforcing Payment of Shares of Subscription Monies.

V. And whereas by the said Act of the Forty-ninth Year of His present Majesty, the said Company of Proprietors are authorized and empowered to raise, either by voluntary Subscription amongst themselves, or by the Addition of new Subscribers, any further Sum or Sums of Money, not exceeding in the Whole the Sum of Ninety thousand Pounds, except as therein is mentioned; and it is by the said Act of the Forty-ninth Year of His present Majesty enacted, that the several Powers, Directions, Penalties, Forfeitures, and Provisions contained in the first therein recited Act, subject nevertheless to the Provisions, Directions and Regulations contained in the now reciting Act, should extend to the calling for, raising Sums for, and recovering the several Sums to be subscribed for the said additional Shares, and for compelling and obliging the several Subscribers for or Proprietors of the said additional Shares to pay the respective Sums to be voluntarily subscribed as aforesaid: And whereas the Powers and Authorities for recovering and compelling Payment of such Subscription Monies or Shares in the said Undertaking, to be created or raised under the

the Powers of the said Act of the Forty-ninth Year of His present Majesty, have been found insufficient; and it is desirable that all the Powers, Directions, Penalties, and Forfeitures, mentioned in or referred to by the said recited Act of the Thirty-ninth Year of His present Majesty, should be extended to and be applicable for the recovering and enforcing Payment of any Shares or Subscriptions towards raising the said Sum of Ninety thousand Pounds, authorized to be raised by the said Act of the Forty-ninth Year of His present Majesty; be it therefore further enacted, That in any Action to be brought by the said Company of Proprietors against any Owner or Owners of any Share or Shares in the said Canal Navigation, to recover the Amount of any Sum or Sums of Money now due and payable, or hereafter to become due or payable from him, her, or them, for or by Reason of any Call or Calls made or to be made by virtue of the said recited Acts or any of them, it shall be sufficient for the said Company of Proprietors to declare and allege that such Defendant or Defendants, being a Proprietor or Proprietors of such or so many Share or Shares of and in the said Canal Navigation, is or are indebted to the said Company of Proprietors in such Sum or Sums of Money as the Call or Calls so in Arrear shall amount unto, for such or so many Call or Calls of such or so many Sum or Sums of Money, upon such or so many Share or Shares belonging to such Defendant or Defendants, (as the Case may happen to be,) duly made upon such Defendant or Defendants, according to the Authority of the said Acts or any of them, whereby an Action accrued to the said Company of Proprietors, by virtue of the said Acts or any of them, without setting forth the special Matter; any Thing in the said recited Acts or this Act contained to the contrary thereof in anywise notwithstanding: Provided always, that no Action shall be brought by the said Company of Proprietors against any Owner or Owners of any Share or Shares of and in the said Canal Navigation until Notice in Writing be given by the Treasurer or Clerk to the said Company of Proprietors, to the Owner or Owners thereof, or left at his, her, or their Dwelling-House or usual or last Place of Abode, Three Calendar Months before such Action shall be brought; and in which Notice shall be contained a Statement and Account how much Money is due from the Person or Persons for his, her, or their Call or Calls in the said Undertaking; and that after such Notice given or left as aforesaid, it shall only be necessary to prove on the Trial of such Action, that such Defendant or Defendants, at the Time of making each Call, for and in respect of which such Action is brought, was or were a Proprietor or Proprietors liable to contribute to Calls, and that such Call was in fact made, without proving the Appointment of the Committee who made such Call, or any other Matter whatsoever; and the said Company of Proprietors shall thereupon be entitled to recover in respect of every such Call, unless it shall appear that such Call exceeded the Sum allowed to be called for or made payable at any one Time, or was made within the Distance of Time allowed by the said Acts from the last antecedent Call; any Thing contained in the said recited Acts or this Act to the contrary notwithstanding.

Directing how the Company are to bring Actions for compelling Payment of Subscription Monies.

VI. Provided always, and be it further enacted, That for the better recovering any Sum or Sums of Money due or to become due for any Call or Calls made or to be made by virtue of the said recited Acts, or any of them, all Bodies Politic and Corporate, and all and every Person

Persons whose Names stand in the Company's Books as Proprietors,

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and Proprietors,

to be deemed
as such.

and Persons whose Name shall at any Time hereafter stand in the Register Book or List of Proprietors of the said Company, either as a Proprietor or Proprietors of One or more Share or Shares in the said Undertaking, whether as Subscribers, or as Successors, Executors, Administrators, or Assignees of Subscribers, shall be deemed and taken to be the Proprietors of the several Shares standing in the said Book in their respective Names, and shall be subject and liable to the Payment of all and every the Call and Calls made and to be made thereon, and to all Actions, Suits, Forfeitures, and Penalties to which original Proprietors of Shares in the said Undertaking are made subject and liable by the said recited Acts, or any of them.

Distress may
be taken for
Rates in
Arrear.

VII. And be it further enacted, That in case any Person or Persons liable to the Payment of any Rate or Rates authorized by the said recited Acts, or any of them, to be demanded or taken, shall neglect or refuse to pay the same to the Person or Persons appointed to receive the same, the Person or Persons authorized to receive the said Rates may and he is hereby empowered to seize and distrain any of the Boats or other Vessels, Goods, Wares, and Merchandise of and belonging to the Person or Persons from whom any such Rates and Arrears of Rates are due, where-soever the same may be found, in and upon the said Canal and collateral Cuts, or either of them, or upon any of the Wharfs by the Side of the same, and to detain such Boats or other Vessels, Goods, Wares, and Merchandise, until Payment of all the Rates and Arrears of Rates which may be due to the said Company of Proprietors, together with all reasonable Charges for such Distress; and if such Distress shall not be redeemed within Five Days after the taking thereof, or in case of Dispute respecting the Amount of the Rates due, then within Five Days after the same shall be settled by some Justice of the Peace as herein-after mentioned, the same shall be appraised and sold as the Law directs in case of Distresses for Rent: Provided always, that if any Dispute shall happen concerning the Amount of any Rate or Rates due, or of the Charges occasioned by any Distress to be taken by virtue of the said recited Acts or this Act, it shall be lawful for the Person or Persons so distraining to retain such Distress till the Amount of the Rates shall be ascertained by some Justice of the Peace for the County, Town, or Place where any such Dispute shall arise, who, on Application made to him for that Purpose, shall examine the Matter on the Oath of the Parties, or of a Witness or Witnesses, and shall determine the Amount of the Rates due; and it shall be lawful for such Justice to award such Costs to either Party, as in his Discretion shall seem proper; and all Costs so to be awarded, if not forthwith paid, shall and may be levied by Distress and Sale of the Goods and Chattels of the said Company of Proprietors, or of the Person or Persons liable to pay the said Costs, as the Case may require, rendering the Overplus (if any) after defraying such Costs, and the Expences attending such Distress and Sale, to the Owner or Owners of such Goods and Chattels so distrained.

Regulating
the Structure
of Vessels.

VIII. And be it further enacted, That no Person shall use or navigate on the said Canal and collateral Cuts, or any of them, any Boat or Vessel that shall have a square Head or Stern, or Projection at the Sides or Bottom thereof, or be constructed in any respect so as to injure or tend to injure the Locks, Masonry, Banks, Lining, Puddling, or other Works of the said Canal or Cuts; and it shall be lawful for the Agents

or Servants of the said Company of Proprietors to stop any such Boat or Vessel, and prevent the same from passing any Lock, or navigating the said Canal or Cuts, or any of them.

IX. And be it further enacted, That it shall be lawful for the Agents or Servants of the said Company of Proprietors to seize and destroy any Poles, Shafts, or Instruments of less Area at either End thereof than Ten square Inches, which shall be used for navigating any Boat or Vessel on the said Canal and collateral Cuts, or any of them.

Poles may be seized in certain Cases.

X. And be it further enacted, That if any Agent, Toll Collector, Wharfinger, Lock-keeper, or other Servant of the said Company of Proprietors, occupying any House, Offices or Buildings, belonging to the said Company of Proprietors, without paying Rent for the same, shall be discharged from his Office by or by the Order of the said Company of Proprietors or their Committee, or the Chairman thereof respectively, and shall not deliver up the Possession of such House, Offices, Buildings, and Appurtenances, together with the Books, Papers, and other Matters and Things belonging to the said Company of Proprietors, in his Custody, Power, or Possession, within Six Days next after Notice of such Discharge shall be given to him, or left at such House, Offices, or Buildings; or if the Widow or Family of any such Agent, Toll Collector, Wharfinger, Lock-keeper, or other Servant, who shall happen to die while in the Service of the said Company of Proprietors, shall refuse to deliver up the Possession of such House, Offices, Buildings, and Appurtenances as aforesaid, together with the Books, Papers, and other Matters and Things belonging to the said Company of Proprietors, in his, her, or their Custody, Power, or Possession, within Seven Days after Demand made thereof; then and in either of the said Cases it shall be lawful for any Justice of the Peace for the County where such House, Offices, and Buildings shall be, and he is hereby required, by Warrant under his Hand and Seal, to order the Constable or other Peace Officer, with such Assistance as shall be necessary, to enter such House, Offices, and Buildings, in the Day-time, and to remove the Persons who shall be found therein, together with their Goods and Chattels, out of such House, Offices, and Buildings, and to take Possession of all the Books, Papers, Matters, and Things belonging to the said Company of Proprietors, which shall be found therein, and to deliver Possession of such House, Offices, and Buildings, together with the Books, Papers, Matters, and Things found therein belonging to the said Company of Proprietors, to the new-appointed Agent, Toll Collector, Wharfinger, Lock-Keeper, or other Servant, or to such other Person or Persons as the said Company of Proprietors or their Committee, or the Chairman thereof respectively, shall appoint to receive the same.

Agents, Collectors, &c. to give Possession of Houses, &c. when removed.

XI. And be it further enacted, That if any Person or Persons who shall be summoned as a Witness or Witnesses to attend and give Evidence before any Justice of the Peace, touching any Matter of Fact contained in any Information or Complaint for any Offence committed against the said recited Acts or this Act, or any of them, either on the Part of the Prosecutor or the Person or Persons accused, shall refuse or neglect to appear at the Time and Place to be for that Purpose appointed, having been paid or tendered a reasonable Sum for his, her, or their Costs and Charges, without

Compelling Witnesses to attend.

without a reasonable Excuse for his, her, or their Refusal or Neglect, or appearing shall refuse to be examined upon Oath, (or, in case of a Quaker or Quakers, on solemn Affirmation,) and to give Evidence before such Justice of the Peace, then, and in either of the said Cases, every such Person shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds, to be recovered and applied in like Manner as any Penalty imposed by the said first recited Act may be recovered and applied.

Persons to be punished for giving false Evidence.

XII. And be it further enacted, That all Persons who, in any Examination to be taken upon Oath, by virtue of the said recited Acts and this Act, or any of them, shall wilfully and corruptly give false Evidence, or otherwise forswear themselves before any Jury, or before any Justice of the Peace acting as such in the Execution of the said recited Acts and this Act, or any of them, shall and may be prosecuted for the same, and upon Conviction thereof, shall be subject and liable to such and the same Pains and Penalties as Persons guilty of wilful and corrupt Perjury are by the Laws in being subject and liable to.

Powers of former Acts, not hereby altered, to extend to this Act.

XIII. And be it further enacted, That the said Acts passed in the Thirty-third, Thirty-fifth, Thirty-ninth, and Forty-ninth Years of the Reign of His present Majesty, and all and every Clause, Article, Provision, Matter, and Thing therein contained, except such and so many of them, or such Parts thereof as are repealed, altered, varied, explained, or amended by this Act, shall extend and be applicable to this present Act, and the Powers, Provisions, and Directions hereof, so far as the same are compatible therewith.

For paying the Expences of the Act.

XIV. And be it further enacted, That the Costs and Charges of obtaining and passing this Act, and all other Costs, Charges, and Expences concerning the same, shall be borne, paid, and defrayed by the said Company of Proprietors out of any Money already raised or received, or out of the first Monies hereafter to be raised or received by virtue of the said recited Acts, or this Act.

Public Act.

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.

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