

ELIZABETH II



1986 CHAPTER x

An Act to extinguish the public right of navigation through
Bull's Lake (The Swatchway). [20th May 1986]

WHEREAS—

(1) Gull Island at the mouth of the Beaulieu River is part of an area which is managed by the Nature Conservancy Council as a National Nature Reserve under the terms of an agreement dated 4th October 1979 made under section 16 of the National Parks and Access to the Countryside Act 1949: 1949 c. 97.

(2) Gull Island is a bird sanctuary and has been designated an Area of Special Protection by an Order dated 17th April 1984 made by the Secretary of State under section 3 of the Wildlife and Countryside Act 1981: 1981 c. 69.

(3) A channel, known as Bull's Lake (The Swatchway), to the west of Gull Island is believed to have been created artificially by man in the eighteenth century:

(4) In recent years, the channel has been enlarged by natural action of tide and current and the progressive enlargement of the channel is resulting in serious erosion of Gull Island which has been reduced in size by half between 1954 and 1985:

(5) The ebb-tide velocity through Bull's Lake (The Swatchway) is preventing the development of a protective shingle spit along the seaward edge of Gull Island by deflecting the longshore shingle drift away from the shore:

(6) Unless the channel is closed the erosion of Gull Island will continue and within 30 years or less the island will probably have completely disappeared:

(7) A public right of navigation exists over the channel and the channel cannot lawfully be closed while the public right of navigation exists:

(8) It is expedient that the public right of navigation over the channel be extinguished and the channel closed:

(9) The closure of the channel would not affect the main entrance to the Beaulieu River which would remain navigable at all stages of the tide:

(10) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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, as follows:—

- Short title. 1. This Act may be cited as the Gull Island Protection Act 1986.
- Interpretation. 2. In this Act—
 “the channel” means the channel known as Bull's Lake (The Swatchway);
 “the plan” means the plan prepared in quadruplicate of which in the month of November 1985 one copy was deposited in the office of the Clerk of the Parliaments, House of Lords, one in the Private Bill Office, House of Commons, one with the Chief Executive of the Hampshire County Council and one with the Chief Executive of the New Forest District Council.
- Extinguish-
 ment of
 navigation
 rights. 3. As from the passing of this Act all rights of navigation along, on, or over, the channel between the lines marked A-B and C-D on the plan shall cease and be extinguished.
- For
 protection
 of
 yachting. 4. For the protection of yachting and recreational users of the river Beaulieu, the following provisions shall, unless otherwise

agreed in writing between the owner and the Association, apply and have effect:—

(1) In this section—

“the Association” means the Royal Yachting Association;

“the owner” means The Right Honourable the Lord Montagu of Beaulieu or his successor as owner of the river;

“the river” means so much of the Beaulieu river and tidal area below mean high-water springs as lie between an imaginary straight line drawn across that river at Bucklers Hard and an imaginary straight line drawn from Stone Point to the eastern extremity of Gull Island, together with so much of the main navigable channel of the river as extends further seawards to a point 3 cables south-south-east of the Beaulieu Spit light beacon.

(2) If the owner causes or permits anything to be deposited or constructed on or in the channel, he shall—

(a) during the course of any such operation and at no more than yearly intervals for a period of 5 years thereafter, cause the depths in the river to be monitored at his expense by means of an echo sounder with trace recorder in a minimum of three lines, of which not less than two shall be cross sections, between six points to be specified by the Association by a suitably qualified person (whose appointment shall be agreed with the Association or, failing agreement, made by the President of the Institution of Civil Engineers) and shall provide a copy of the reports of such monitoring free of charge to the Association; and

(b) if any accumulation of silt or other material or any scouring or alteration of the tidal flow in the river thereby results so as to cause an impediment to free navigation or otherwise prejudice safe navigation in the river, remove such accumulation of silt or other material, carry out such works and take such further action (including, if required the removal of the thing deposited or constructed) as may be reasonably necessary for the removal of the impediment, the restoration of safe navigation and for the prevention of any recurrence of the deleterious effects so caused.

(3) For the purposes of paragraph (2) above, the depths in the river immediately before anything is deposited or constructed on or in the channel shall be taken, unless

otherwise proved, to be those shown on the Admiralty Chart numbered 2021 and published in 1986 or any revision or replacement of that chart having effect at the time of the deposit or construction in question.

- (4) Where anything deposited or constructed on or in the channel is required to be removed pursuant to paragraph (2) above any related works or consequent siltation which obstruct navigation but do not otherwise continue to protect Gull Island shall also be removed by the owner and in so far as the channel is again rendered navigable from the river to the sea it shall again be subject to the public right of navigation.

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