ANNO SEPTIMO

GEORGII IV. REGIS.

Cap. xxxiv.

An Act for embanking, draining, and otherwise improving Lands in the Parishes of *Metheringham* and *Dunston* in the County of *Lincoln*.

[11th *April* 1826.]

WHEREAS there are within the Parishes of *Metheringham* and *Dunston* in the County of *Lincoln* certain open and unembanked Lands, called *The Washway Lands*, containing together Four hundred and twenty-eight Acres, or thereabouts, lying between the present embanked Fens and Low Lands within the said Parishes and the River *Witham* in the said County: And whereas the Right Honourable *Frederick John Robinson*, *Robert Vyner* Esquire, *Vere* Esquire, and *John Goude Stevenson* Esquire, *Thomas Dawson*, *John Ellis*, *Edward Kent*, and others, are the Owners or Proprietors of the said open and unembanked Lands in *Metheringham* and *Dunston* aforesaid: And whereas the said open and unembanked Lands are frequently overflowed or flooded by the Waters passing down the Delphs communicating with the said River *Witham*, whereby the Crops growing thereon are often destroyed, the Pasturage thereof greatly injured, and the Cattle feeding thereon are liable to be drowned; and it will be of great Benefit and Advantage to all the Proprietors and Parties interested therein if the said open and unembanked Lands were embanked, drained, and otherwise improved, and Provision made for the future Support of the Banks and Drainage thereof; but the several Purposes aforesaid cannot be

effected without the Aid and Authority of Parliament: 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 *William Greetham* of *Stainefield* in the County of *Lincoln*, Gentleman, and his Successor for the Time being, to be elected in manner herein-after mentioned, shall be and he is hereby appointed a Commissioner for embanking, draining, and otherwise improving the said open and unembanked Lands, called *The Washway Lands*, and for carrying this Act into Execution, subject to the Rules, Regulations, and Directions herein-after contained.

Commissioner appointed.

II. And be it further enacted, That if at any Time before the Power of the said Commissioner, or any other Commissioner to be appointed in his Stead, shall cease as herein-after directed, the said Commissioner or such other Commissioner shall die, neglect, refuse, or become incapable to act, then and in such Case any Two or more Proprietors of Twenty Acres of the said open and unembanked Lands shall and may cause public Notice to be given in the Parish Churches of *Metheringham* and *Dunston* aforesaid, on some *Sunday* immediately after Divine Service, or by affixing such Notice on the principal outer Door of the said Parish Churches of *Metheringham* and *Dunston*, that the Owners or Proprietors of the said open and unembanked Lands, or their Deputies or Agents appointed by Writing under their Hands, will meet at the House known by the Name or Sign of the *Rein Deer Inn*, or at some other convenient House in the City of *Lincoln*, on the *Friday* Sevennight next after such Notice, between the Hours of Ten and Twelve of the Clock in the Forenoon, then and there to elect and choose a disinterested Person to be a Commissioner in the Place or Stead of such Commissioner so dying, neglecting, refusing, or becoming incapable to act; and it shall and may be lawful for any Owner or Proprietor of Twenty Acres or more of the said open and unembanked Lands, or his Deputy or Agent appointed as aforesaid, present at such Meeting, to vote in the Choice of every such Commissioner; and it shall be lawful for any Number of Owners or Proprietors of the said open and unembanked Lands, amounting in the whole to Twenty Acres at the least of such Lands, or their Deputies or Agents appointed as aforesaid, to nominate any Person to vote for them at such Election, and such Person so nominated shall be and he is hereby authorized and empowered to vote in the Choice of every such Commissioner; and every such new Commissioner from Time to Time to be chosen by a Majority of such Votes as aforesaid (such Appointment being certified in Writing under the Hands of the Persons choosing such Commissioner), after having taken the Oath directed to be taken by every Person acting as a Commissioner in the Execution of this Act, shall have the like Power and Authority for putting this Act into Execution as if he had been named and appointed a Commissioner in and by this Act; and such Certificate, together with all such Nominations as aforesaid (if any), shall be annexed to and deposited with the Award of the said Commissioner, and true Copies of such Certificates and Nominations shall be admitted in Evidence, in like Manner as a Copy of the Enrolment

New Commissioner to be appointed in case of Death, &c.

of the said Award is herein-after directed to be admitted and allowed.

Commissioner to take the following Oath.

III. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of any of the Powers and Authorities given by this Act, until he shall have taken and subscribed the Oath or Affirmation following; that is to say,

'I do swear [*or, being One of the People called Quakers*, do solemnly affirm], That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Seventh Year of the Reign of King *George* the Fourth, intituled [*here set forth the Title of this Act*,] according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever. So help me GOD.'

[*Or, being a Quaker, omit the Words* 'So help me God.']

Which Oath or Affirmation any Justice of the Peace for the Parts of *Kesteven* in the said County of *Lincoln* is hereby empowered and required to administer; and the said Oath or Affirmation, so to be taken and subscribed by such Commissioner as aforesaid, shall be annexed to and enrolled and deposited with the Award of the said Commissioner, and a Copy of the Enrolment thereof shall be admitted as legal Evidence.

Notice of Commissioner's first and other Meetings.

IV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to give or cause to be given public Notice in the Parish Churches of *Metheringham* and *Dunston* aforesaid, upon some *Sunday* immediately after Divine Service, or by Writing under his Hand, to be affixed on the principal outer Door of the said Churches, and also by Advertisement in some Newspaper printed or usually circulated in the said County of *Lincoln*, of the Time and Place of his first and every subsequent Meeting for executing the Powers of this Act vested in him, at least Ten Days before the Day whereon such Meetings respectively shall be appointed to be holden (Meetings by Adjournment, which it shall be lawful for the said Commissioner from Time to Time to make in the meantime, only excepted): Provided always, that all the Meetings of the said Commissioner shall be held at some convenient Place within the said Parishes of *Metheringham* and *Dunston*, or one of them, or within Eight Miles of the Boundary of one of the said Parishes; provided also, and in case it shall happen that the said Commissioner shall not be present at the Time and Place appointed for any Meeting as aforesaid, it shall be lawful for the Clerk to the said Commissioner then present to adjourn such Meeting to a future Day, not exceeding Twenty Days from the Day on which such Meeting was appointed to have been held, giving Notice thereof in Writing to the said Commissioner.

Other Notices how to be given.

V. And be it further enacted, That all other Notices necessary or requisite to be made or given by the said Commissioner for the Purposes of

of this Act, shall be made or given by Writing, to be affixed on the principal outer Door of the said Parish Churches of *Metheringham* and *Dunston* aforesaid.

Proceedings of Commissioner to be entered in a Book.

VI. And be it further enacted, That all Orders and Proceedings of the said Commissioner shall be entered in a Book or Books to be provided and kept for that Purpose, and shall be signed by such Commissioner; and such Book, and the Entries therein of such Orders respectively, shall and may be read and received in Evidence in all Suits or Actions concerning any thing done in relation to or in the Execution of this Act.

Commissioner may appoint a Clerk.

VII. And be it further enacted, That the said Commissioner shall and he is hereby empowered to appoint some fit and proper Person as Clerk to assist him in the Execution of this Act, and shall have full Power from Time to Time to remove such Clerk, and to appoint another in his Stead.

Same Person not to be appointed Clerk and Treasurer.

VIII. Provided always, and be it further enacted, That it shall not be lawful for the said Commissioner to appoint the Person who may be appointed Clerk, or the Partner of any such Clerk, or the Clerk or any other Person in the Service or Employ of any such Clerk, the Treasurer for the Purposes of this Act, or to appoint any Person who may be appointed Treasurer, or the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer, the Clerk to the said Commissioner; and if any Person shall accept both the Offices of Clerk and Treasurer for the Purposes of this Act, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk, shall accept the Office of Treasurer, or being the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer, shall accept the Office of Clerk in the Execution of this Act, or if any such Treasurer shall hold or accept any Place or Office of Profit or Trust under the said Commissioner other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person who shall sue for the same, to be recovered with full Costs of Suit in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than One Imparlance, shall be allowed.

Commissioner's Allowance.

IX. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and executing this Act, there shall be paid to the Commissioner acting in the Execution of this Act, as a Recompence and in full Satisfaction for his Trouble and Expences, the Sum of Three Pounds and Three Shillings, and no more, for each and every Day on which he shall be employed in travelling to, attending in, or returning from (but not exceeding One Day in travelling to or returning from) so acting; and that no Commissioner shall require or be entitled to receive any Fee, Reward, or Gratuity whatsoever (except the said Sum of Three Pounds and Three Shillings *per* Day); and that at all Meetings to be held in pursuance of this Act the said Commissioner shall

shall pay his own Expences, and that the said Proprietors, their Attornies and Agents, shall pay their own Expences, when they or any of them shall attend the said Commissioner at any Meeting to be held in pursuance of this Act.

Properties ascertained by the present Surveys.

X. And be it further enacted, That in order to ascertain the Property of the said several Owners and Proprietors of and in the said open and unembanked Lands, the Surveys already had and taken by or under the Authority of the general Commissioners for Drainage by the River *Witham*, appointed under a certain Act of Parliament made and passed in the Second Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for draining and preserving certain Low Lands called* The Fens, *lying on both Sides of the River* Witham *in the County of* Lincoln, *and for restoring and maintaining the Navigation of the said River from the* High Bridge *in the City of* Lincoln, *through the Borough of* Boston, *to the Sea*, shall be deemed and taken for the Purposes of this Act to be the full, true, and exact Surveys of the said open and unembanked Lands, and of the Quantity and Contents of each Proprietor's Share therein.

2 G. 3. c. 32.

Commissioner empowered to determine Differences, but not Titles.

XI. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors of, or Persons interested in or claiming to be interested in any of the said open and unembanked Lands directed to be embanked and drained by virtue of this Act, or touching or concerning any Matter or Thing whatsoever relating thereto, or to the said Embankment and Drainage thereof, or otherwise howsoever, it shall be lawful for the said Commissioner and he is hereby authorized and required to examine into, hear, and determine every such Dispute or Difference as aforesaid; provided that nothing herein contained shall authorize or empower the said Commissioner to determine the Title to any Lands, Tenements, or Hereditaments whatsoever, or to determine any Right between any Parties contrary to the Possession of such Parties; but in case the said Commissioner shall be of Opinion against the Right of the Person or Persons so in Possession, he shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due Course of Law or Equity.

Power to award Costs.

XII. And be it further enacted, That in case the said Commissioner shall, upon the Hearing or Determination of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of this Act, see cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or overruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, that then and in such Case it shall be lawful for such Commissioner, and he is hereby authorized and empowered, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever,

to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Persons dissatisfied may try their Rights at Law.

XIII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic or Corporate, interested or claiming to be interested in any of the open and unembanked Lands authorized to be embanked and drained by this Act, or to any Right or Interest therein, shall be dissatisfied with the Determination of the said Commissioner, it shall be lawful for the Person or Persons, Body or Bodies Politic or Corporate, so dissatisfied, to cause an Action to be brought in one of His Majesty's Courts of Record at *Westminster*, against the Person or Persons, Body or Bodies Politic or Corporate, in whose Favour any such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney; and thereupon the Person or Persons, Body or Bodies Politic or Corporate, so dissatisfied, shall proceed to a Trial at Law at the next or at the Assizes immediately following the next to be holden for the said County of *Lincoln* after such Action or Actions shall have been commenced; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept of one or more Issue or Issues, whereby the Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, if the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person or Persons, Body or Bodies Politic or Corporate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts and order a new Trial to be had therein, which it shall be lawful for the Court to do; and after such Verdict or Verdicts shall be obtained (and not set aside by the Court), the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action at Law shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Actions not to abate by the Death of Party.

XIV. Provided always, and be it further enacted, That if any of the Parties in any Action or Actions to be brought and prosecuted in pursuance of this Act, shall die pending the same, such Action or Actions shall not abate by reason thereof, but shall be proceeded in as if no such

Event had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for any Person or Persons, Body or Bodies Politic or Corporate respectively, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same, within the Time so limited as aforesaid, against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action or Actions, in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Suits not to delay the Execution of this Act.

XV. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any of the said Owners or Proprietors of or in the said open and unembanked Lands hereby authorized to be embanked and drained, or any Part thereof, such Suit or Suits shall not impede, delay, or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act, but that the Embankment and Drainage thereof shall be proceeded in notwithstanding such Suit or Suits.

Lands to be embanked and drained.

XVI. And be it further enacted, That for the draining, preserving, and effectually securing the said open and unembanked Lands from Floods, the said Commissioner shall and may, and he is hereby authorized, empowered, and required, as soon as conveniently may be after the passing of this Act, to embank or cause to be embanked the said open and unembanked Lands with good and sufficient Banks, in the Manner and of the average Dimensions herein-after expressed, and of greater Dimensions if the same shall be found necessary; (that is to say), from the South Bank of the River *Witham* along the whole of the West Side of a certain Dike called *Carlton Dike*, running between the Parishes of *Blankney* and *Metheringham*, to the Bank of the old internal embanked Fens in the said Parish of *Metheringham*, and from the aforesaid South Bank of the said River *Witham* along the whole of the East Side of a certain Delph called *Nocton Delph*, running between the Parishes of *Nocton* and *Dunston*, to the aforesaid Bank of the old internal embanked Fens in the said Parish of *Dunston*, with a Bank of the Breadth of Forty-eight Feet Six Inches at the Base, Six Feet at the Top, and Eight Feet Six Inches high, with a Puddle of Three Feet wide and Ten Feet deep; and also to alter, enlarge, contract, support, and maintain any of the present Banks now being within the said Lands, and from Time to Time, as the said Commissioner shall think proper, to make, support, erect, alter, and maintain, or cause to be made, supported, erected, altered, or maintained, all

all such Cuts, Tunnels, and Waterways through and under any Banks made or to be made upon or against the said open and unembanked Lands by virtue of this Act, and also all such Banks, Drains, Ditches, Dams, Sluices, Tunnels, Bridges, Trays, Staunches, Outlets, Engines, and other Works, in, upon, through, and over the said Lands intended to be embanked and drained by virtue of this Act, as he may think necessary for effectually draining and preserving the same, without the Controul or Interruption of any Person or Persons whomsoever.

Power to dig Lands for Banks.

XVII. And be it further enacted, That it shall be lawful for any Officer or Officers who shall be appointed by the said Commissioner, or the Trustees hereafter to be appointed, by virtue of a Warrant or Precept under the Hands of the said Commissioner, or of the said Trustees when appointed (which Warrants or Precepts the said Commissioner and Trustees respectively are hereby empowered from Time to Time to grant), to cut, dig, take, and carry away, or cause to be cut, dug, taken, or carried away, any Quantity of Earth or Materials proper for the Purpose of embanking the Lands hereby intended to be embanked and drained, in, upon, out of, or from any of the said Lands or Grounds so intended to be embanked and drained as aforesaid, of any Person or Persons whomsoever, where the same can be found; and such reasonable Satisfaction for the cutting, making, or erecting such Cuts, Drains, Banks, Tunnels, Trays, Staunches, Outlets, Works, or Engines, as shall be so made or erected in, through, or upon any of the said Lands, and for digging and taking of Earth or other Materials therefrom for the Purpose of embanking the same or any other of the Purposes of this Act, shall be made to the Owner or Owners, Occupier or Occupiers of such Lands, for the Damages he, she, or they shall thereby sustain, as shall be agreed upon between the said Commissioner or Trustees and the Owner or Owners, Occupier or Occupiers of such Lands and Grounds; and if such Owner or Owners, Occupier or Occupiers, cannot agree concerning the Amount of such Damages, then the same shall be assessed, adjudged, and finally determined by the Justices assembled at the next or some other General Quarter Sessions of the Peace for the Parts of *Kesteven* in the said County of *Lincoln*, to be held within Six Calendar Months next after such Disagreement as aforesaid, upon Complaint thereof made at such Quarter Sessions by such Owner or Owners, Occupier or Occupiers, Notice thereof in Writing being given by him, her, or them to such Commissioner or Commissioners, Trustee or Trustees, Fourteen Days before such Complaint be made.

Commissioner empowered to embank a small Piece of Land belonging to E. Turnor, Esq. if found necessary.

XVIII. And whereas *Edmund Turnor* Esquire claims to be entitled to a small Parcel of Land (formerly Part of the Bed of the old River *Witham*), containing by Estimation Two Acres or thereabouts, which it is considered will not be benefited by the said intended Embankment and Drainage, and therefore ought not to be made contributory to the Expence thereof; be it therefore further enacted, That if in the Execution of this Act it shall be found necessary, in order to complete the Embankment and Drainage of the said open and unembanked Lands, to embank the said Parcel of Land to which the said *Edmund Turnor* claims to be so entitled as aforesaid, then and in such Case it shall and may be lawful for

for the said Commissioner so to do, in such Manner as he may think proper; provided that he the said *Edmund Turnor*, his Heirs, Executors, Administrators, or Assigns, or other the Owner or Owners, Proprietor or Proprietors of such Parcel of Land for the Time being, shall not at any Time or Times hereafter be in any Manner deemed or rendered liable to pay any Rate, Tax, Assessment, or other Cost, Charge, or Expence in respect of the Embankment of such Parcel of Land, but shall from Time to Time and at all Times for ever hereafter be wholly exonerated and exempt by the other Owners and Proprietors of the said open and unembanked Lands so intended to be embanked and drained as aforesaid, from every Tax, Rate, Assessment, Cost, Charge, or Expence to be incurred in respect thereof, or in anywise relating thereto.

Engines, &c. in whom to be vested.

XIX. And be it further enacted, That all the Cuts, Drains, Ditches, Dams, Sluices, Tunnels, Bridges, Trays, Staunches, Outlets, Mills, Gigs, Engines, and other Works, which shall at any Time hereafter be made, erected, supported, or maintained by virtue of this Act, for the Purpose of draining and preserving the said open and unembanked Lands, and the Rights and Property to and in such Engines, and the Materials of which the same shall consist, shall be and they are hereby vested in the Commissioner for the executing the Powers of this Act for the Time being, until the Powers and Authority of the said Commissioners shall cease, and until the Trustees herein-after directed to be chosen shall be appointed by virtue of this Act; and after such Appointment shall be certified as herein-after mentioned, then the said Works, and the Right and Property to and in the same, and the Materials of which the same shall consist, shall be and are hereby vested in the said Trustees; and the said Commissioner and Trustees respectively are hereby authorized and empowered to insure such Engines from Fire, and to bring or cause to be brought any Action or Actions in their own Names, or in the Name of any one of them, or prefer or order and direct the preferring of Indictments or other Prosecutions against any Person or Persons who shall dig up, break, or pull down, steal, take, carry away, destroy, spoil, or injure any of them, or any Part thereof, or any of the Materials of which the same shall be made, built, or consist.

For disposing of the Herbage of the Banks.

XX. And be it further enacted, That the Herbage and Produce of the Banks to be made or erected by virtue of this Act shall belong to and be the Property of the Proprietors or Occupiers of the Lands adjoining thereto respectively, and shall be consumed or taken away at the Option of such Proprietors or Occupiers, subject nevertheless to such Rules, Orders, and Regulations for stocking the said Banks, and fencing the same from the adjoining Lands, as the said Commissioner or Trustees respectively shall from Time to Time think necessary, and order, direct, or appoint, for the Protection and Preservation thereof.

How Charges of obtaining and execut-

XXI. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and the Costs and Charges of the

ing this Act are to be paid.

the said Commissioner and Clerk, and of preparing and enrolling the said Award, and also the Charges and Expences of embanking and draining the said open and unembanked Lands, and of making, erecting, supporting, and using the said Works of Drainage, and all other Charges and Expences to be incurred in the Execution of this Act, or of embanking and draining the said open and unembanked Lands, or in anywise incidental thereto, shall from Time to Time be borne and paid by the Proprietors and Owners of the said open and unembanked Lands in *Metheringham* and *Dunston* aforesaid, intended to be embanked and drained by virtue of this Act, by an equal Acre Rate or Tax to be made by the said Commissioner upon all the Lands to be embanked and drained by virtue of this Act, not exceeding in the whole the Sum of Five Pounds for each and every Acre of such Lands; and the said several Sums thereby rated shall be paid to such Person or Persons, in such Proportions and Manner, and at such Time or Times, as the said Commissioner shall by Writing under his Hand direct or appoint; and in case any Proprietor or Owner shall refuse or neglect to pay his or her Share or Proportion thereof, within the Time or Times respectively for that Purpose to be limited by the said Commissioner, then it shall be lawful to and for the said Commissioner, or any Person or Persons to be authorized by him, to enter into and upon the said Lands to be embanked and drained of such Person so refusing or neglecting, and the Rents, Issues, and Profits thereof to receive and take until thereby or otherwise his or her said Share or Proportion of the said Costs, Charges, and Expences, together with all the Costs, Charges, and Expences occasioned by and attending such Entry upon and Receipt of the Rents and Profits of the same Premises respectively, and also Interest for such Shares and Proportions from the Time the same shall be made payable by the said Commissioner, shall be fully satisfied and paid.

Power to borrow Money for Expences of the Act.

XXII. And be it further enacted, That it shall be lawful for the said Commissioner to borrow and take up at Interest, of any Person or Persons willing to advance or lend the same, such Sum or Sums of Money as shall from Time to Time be necessary for defraying the Costs, Charges, and Expences of obtaining, passing, and executing this Act.

Money borrowed to be repaid with Interest.

XXIII. And be it further enacted, That if any Person or Persons shall advance or pay any Sum or Sums of Money for or towards the Expences of applying for, obtaining, and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the said Commissioner, together with lawful Interest for the same, to be computed from the Time of the Payment or Advancement thereof, out of the first Monies to be raised by virtue of this Act.

Power to Mortgage the Lands of Minors, &c. for the Expences.

XXIV. And be it further enacted, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees, or Attornies of, or Persons acting as Guardians, Trustees, Committees, or Attornies for any of the said Owners and Proprietors of the said open and unembanked

Lands, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable to act for themselves, and to and for every of them for the Time being, and to and for any of the said Owners or Proprietors being Tenants in Tail or for Life only, and to and for every of them respectively for the Time being, by and with the Consent of the said Commissioner, in Writing under his Hand and Seal, from Time to Time to charge the said open and unembanked Lands which are intended to be embanked and drained by virtue of this Act, with any Sum or Sums of Money, not exceeding Five Pounds an Acre, for defraying the Charges and Expences of this Act, and the Charges and Expences of the said Commissioner, and of embanking and draining the said open and unembanked Lands by virtue of this Act, and all other necessary Costs and Expences about and concerning the Premises; and for securing the Repayment of such Sum or Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said open and unembanked Lands unto such Person or Persons as shall advance or lend such Sum or Sums of Money respectively for any Term or Number of Years; so as every such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition to be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and so as every such Grant, Mortgage, Lease, or Demise do also contain a Proviso that the Person or Persons entitled in Remainder or Reversion to any such open and unembanked Lands shall not be liable, upon his, her, or their becoming possessed thereof, to the Payment of any further or larger Arrear of Interest than for One Year preceding the Time that his, her, or their Title to such Possession shall have commenced.

Mortgages may be assigned.

XXV. And be it further enacted, That all and every Person or Persons to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act, as a Security for any Sum or Sums of Money by him, her, or them lent or advanced on the Credit and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed or Deeds, Writing or Writings, under his, her, or their Hand and Seal or Hand and Seals, to be executed in the Presence of Two or more credible Witnesses, assign or transfer the same Security or Securities, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his, her, or their Right, Title, and Interest in and to the same, unto any other Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, or their Executors and Administrators, and all Persons claiming under them or any of them, shall and may use, take, and pursue all such Methods, Courses, and Expedients in Law or Equity, for recovering and obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof, as is or are used, taken, and pursued in all Cases of the like Nature.

XXVI. And

Tenants in Tail, &c. may charge Money advanced by them.

XXVI. And be it further enacted, That it shall and may be lawful to and for any Tenant or Tenants in Tail or for Life of any of the said open and unembanked Lands intended to be embanked and drained by virtue of this Act, by any Deed or Deeds in Writing, or by his, her, or their last Will and Testament duly executed according to Law, to charge such open and unembanked Lands as shall not have been mortgaged or subjected to the Repayment of such Sum as aforesaid, with such Sum or Sums of Money (not exceeding the Sum of Five Pounds an Acre) as shall be appointed by the Commissioner for putting this Act into Execution to be paid, and which by any Writing or Writings under the Hand of the said Commissioner shall be certified to have been accordingly paid by such respective Tenant or Tenants in Tail or for Life, for his, her, or their Share or Proportion of the Costs, Charges, and Expences of this Act, and of embanking and draining the said open and unembanked Lands in pursuance thereof; which Sum and Sums of Money so to be charged as aforesaid shall be payable within One Year next after the Decease of every such Tenant in Tail or for Life, with Interest for the same after the Rate of Five Pounds *per Centum per Annum*, to be computed from his, her, or their respective Decease, unto such Person or Persons as such Tenant or Tenants in Tail or for Life shall by such Deed or Deeds, or Wills and Testaments respectively, direct or appoint; and in default of such Direction and Appointment, to his, her, or their respective Executors or Administrators.

All such Charges shall be valid.

XXVII. And be it further enacted, That every such Grant, Mortgage, Lease, or Demise, and every such Charge as aforesaid, to be made of or upon any of the said open and unembanked Lands, shall be good, valid, and effectual in the Law for the Purposes hereby intended, notwithstanding the Want of Title in the said Husbands, Guardians, Trustees, Committees, or Attornies, or Tenants in Tail or for Life, and notwithstanding any Settlement, Will, Trust, Use, Remainder, Limitation, or other Incumbrance of or concerning the said open and unembanked Lands, or any Part or Parts thereof, then in being or capable of taking effect, to the contrary.

Commissioner to make an Award.

XXVIII. And be it further enacted, That within the Space of Twelve Calendar Months next after the said Embankment and Drainage shall be completed, the said Commissioner, or his Successor for the Time being, shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, which shall express the Quantity in Statute Measure of Acres, Roods, and Perches contained in the said open and unembanked Lands so intended to be embanked and drained as aforesaid, and the Quantity and Contents of each Owner's Property in the said open and unembanked Lands, to be ascertained in manner aforesaid, and proper Orders and Directions for and concerning the laying out, making, maintaining, cleansing, and keeping in repair the Ditches, Drains, Dams, Banks, Tunnels, Engines, and other necessary Works, in, upon, and over the said open and unembanked Lands intended to be embanked and drained as aforesaid, and all such Orders, Regulations, and Determinations as are in and by this Act mentioned, declared, required, or authorized

authorized to be made or established, and such other Orders and Regulations as shall be necessary or proper, conformable to the Tenor of this Act, for the more easy, convenient, and effectual Execution thereof, and for preventing all Difficulties and Disputes in relation to the Matters herein contained; which Award or Instrument shall be fairly engrossed or written upon Parchment, and signed and sealed by the said Commissioner; and the said Award or Instrument shall, within the Space of Six Calendar Months after such signing and sealing, together with the Commissioner's Oath herein-before mentioned, be enrolled with the Clerk of the Peace for the Parts of *Kesteven* in the County of *Lincoln*, or in One of Majesty's Courts of Record at *Westminster*, to the end recourse may be had to the same by any Person or Persons interested in the said Embankment and Drainage; and the said Award, with the said Oath, or a true Copy of the Enrolment thereof, or of any Part thereof respectively, certified by the proper Officer, shall from Time to Time be admitted in all Courts whatsoever as legal Evidence, which Copy or Copies the proper Officer for the Time being of the Court where such Enrolment shall be made is hereby directed to make and deliver to any Person or Persons desiring the same, he, she, or they paying for such Copy after the Rate of Two-pence *per* Sheet, reckoning Seventy-two Words to each Sheet; and any Person or Persons shall have Liberty to inspect and peruse the said Enrolment, paying for every such Inspection or Perusal One Shilling and no more; and that all Orders, Directions, Regulations, and Determinations so to be made as aforesaid shall be binding and conclusive unto and upon all Parties interested therein; and the said original Award or Instrument, after the same shall have been so enrolled as aforesaid, shall be deposited in a Chest within the Church of *Metheringham* aforesaid, amongst the Records of the said Parish, for the Inspection and Perusal of the several Owners or Proprietors of the said open and unembanked Lands in the said Parishes of *Metheringham* and *Dunston* aforesaid, intended by this Act to be embanked and drained.

Commissioner may contract for Works.

XXIX. And be it further enacted, That it shall and may be lawful to and for the said Commissioner, by Advertisement to be inserted in some Newspaper printed or generally circulated in the said County of *Lincoln*, to appoint a Time and Place to receive Proposals from, and enter into, make, and execute Contracts with, any Engineer, Engineers, or Workmen, or other Person or Persons, for embanking and draining the said open and unembanked Lands, and for providing proper Engines, Utensils, and Materials for that Purpose, and all other Matters, Articles, and Things concerning the same; and all such Contracts so to be made shall be entered in a Book to be kept for that Purpose, and signed by the said Commissioner.

Limiting the Duration of Power of Commissioner.

XXX. Provided always, and be it further enacted and declared, That from and immediately after the Appointment of Trustees for the Purpose of continuing and preserving the said Works of Drainage as herein-after mentioned, the several Powers and Authorities granted to or vested in the said Commissioner by this Act shall cease and determine, any thing herein-before contained to the contrary notwithstanding: Provided nevertheless,

theless, that the said Commissioner shall have full Power and Authority, by virtue of this Act, at any Time or Times after such Appointment of Trustees, to levy, recover, and receive all such Rates, Taxes, Costs, Charges, and Sums of Money, as before the Time of such Appointment of Trustees shall have been rated, taxed, or charged by him upon any of the said Lands or Grounds hereby intended to be embanked and drained, and shall then be in arrear and unpaid, any thing herein-before contained to the contrary thereof notwithstanding.

Appointment of Trustees.

XXXI. And in order that the several Banks, Drains, Engines, and other Works necessary for the draining and preserving of the said open and unembanked Lands, may be maintained, supported, and kept in repair, be it further enacted, That at any Time after the Expiration of Three Years from the Execution of the said Award or Instrument, or at such earlier Time as the said Commissioner shall by Writing under his Hand, to be affixed on the principal Doors of the Parish Churches of *Metheringham* and *Dunston* aforesaid, declare the said Works of the said Embankment and Drainage to be completed, and so at any Time after the End of every Three succeeding Years from the Time of every Election of Trustees as herein-after mentioned, it shall and may be lawful to and for any Proprietor of Twenty Acres of Land intended to be embanked and drained by virtue of this Act, to cause public Notice to be given in the said Parish Churches of *Metheringham* and *Dunston* aforesaid, on some *Sunday* immediately after Divine Service, or otherwise by Writing affixed upon the principal Doors of the said Churches immediately before such Divine Service has begun, that the Proprietors of Lands intended to be embanked and drained as aforesaid, or their Deputies or Agents, to be appointed by Writing under their Hands, will meet at some Public House or other convenient Place in one of the said Parishes of *Metheringham* or *Dunston*, on the *Thursday* Three Weeks then next after such Notice, between the Hours of Ten and Twelve of the Clock in the Forenoon, then and there to make choice of Three proper Persons to be Trustees for the further putting this Act into Execution; and it shall and may be lawful for every Proprietor or Owner of Twenty Acres or more of Land within the said Embankment and Drainage, or his Deputy or Agent appointed as aforesaid, present at such Meeting, to vote for each and every Trustee; and if at such Meeting any Number of Proprietors or Owners of Lands within the said Embankment and Drainage, amounting to Twenty Acres at the least of such Lands, or their Deputies or Agents appointed as aforesaid, shall by Writing under their Hands nominate any Person to vote for them at such Election, such Person so nominated shall be and he is hereby authorized and empowered to give One Vote in the Choice of each and every Trustee so to be elected; which said respective Trustees shall continue to act in the Execution of this Act until the Election of others in their Stead as herein mentioned, and no longer; and such Trustees as shall be from Time to Time so chosen by a Majority of such Votes (the same being certified by Writing under the Hands of the Persons so choosing them, in a Book to be kept in the Parish Church of *Metheringham* aforesaid, and such Nomination (if any) affixed or annexed in the said Book), shall be and are hereby appointed Trustees for putting into Execution the Powers and Authorities hereby

given to and vested in them, and they are hereby fully authorized and empowered to make, support, erect, alter, and maintain, or cause to be made, supported, erected, altered, and maintained, all such Cuts, Tunnels, and Waterways, through and under any Banks whatsoever to be erected upon or against the said Lands intended to be embanked and drained by virtue of this Act, and all such Cuts, Dams, Drains, Banks, Sluices, Tunnels, Bridges, Trays, Staunches, Outlets, Engines, and other Works in, upon, through, and over the said open and unembanked Lands, as they shall think necessary for draining and preserving the same; and when any of the said Trustees shall die, neglect or refuse to act, or become disqualified to act in the Execution of this Act, it shall and may be lawful to and for the said Proprietors or Owners at any Time thereafter, upon such Notice as aforesaid, to choose a Trustee in the Place and Stead of each such Trustee so dying, neglecting or refusing to act, in the same Manner as Trustees are hereby directed to be chosen; and such Trustees being so chosen and certified, and such Nomination as aforesaid (if any) being annexed to or affixed in such Book, shall have the same Powers as the Trustee in the Stead of whom he shall be so chosen would have had by virtue of this Act.

Regulations as to Meetings of Trustees.

XXXII. And be it further enacted, That the Trustees for executing this Act shall and may from Time to Time meet at such Time and Place within either of the said Parishes of *Metheringham* and *Dunston* as to them shall seem convenient, and may adjourn themselves to meet at any Place or Places, and at such Time or Times as the said Trustees, or the major Part of them present at any Meeting, shall appoint; and at all their several Meetings the said Trustees shall pay and defray their own Expences, except any Sum, not exceeding Ten Shillings *per Diem*, for the Use of the Room wherein they shall meet; and all Orders and Determinations of the Trustees in the Execution of this Act shall be made at Meetings to be held in pursuance thereof, and not otherwise, and that no Order or Determination shall be made unless the major Part of the Trustees present shall concur therein; and that all Acts, Orders, and Proceedings relating to this Act, which are directed to be had, made, done, or exercised by or before the said Trustees, and all the Powers and Authorities vested in them generally, shall and may be had, made, done, and exercised by the major Part of the Trustees who shall be present at the respective Meetings to be held by virtue of this Act, the whole Number present not being less than Three (except in such Cases where any other Number is by this Act named for any particular or special Purpose), and that all Acts, Orders, or Proceedings had, made, or done by or before such Three Trustees shall have the same Force and Effect, and be binding and conclusive on all Persons, and to all Intents and Purposes whatsoever, as fully and effectually as if the same were had, made, done, or executed by or before all the said Trustees; and that a Chairman shall and may in the first place be appointed at every Meeting to be held by virtue and for the Purposes of this Act, who, in case of an equal Number of Votes (including the Chairman's Vote) shall have the casting or decisive Vote; and that no Order or Determination at any Meeting of the said Trustees, once made, agreed upon, or entered into, shall be revoked or altered at any subsequent Meeting, unless Notice of the Intention

tion to make such Revocation or Alteration shall have been given by Three or more Trustees, by Writing under their Hands, to the Clerk to the said Trustees at a previous Meeting, and entered in the Book of Proceedings of such Meeting, and unless Notice, signed by any Two or more Trustees, shall have been affixed on the principal Doors of the said Parish Churches of *Metheringham* and *Dunston*, Twenty-one Days at least before such Meeting, nor unless such Revocation or Alteration shall be agreed to be made by a greater Number of Trustees than concurred in the making of any such Order or Determination.

Notice of Meetings.

XXXIII. And be it further enacted, That of all Meetings to be held by the Trustees in pursuance of this Act (except where it shall be herein otherwise directed) Notice shall be inserted in the *Lincoln, Rutland, and Stamford Mercury*, or in some other Newspaper usually circulated in the said County of *Lincoln*, at least Ten Days before the Day appointed for any Meeting, or such other Notice thereof shall be given and published in such Manner as the said Trustees at their said first Meeting, or at any Annual Meeting to be held by virtue of this Act, shall order and direct.

Orders to be entered in a Book, and signed by the Chairman; and the same, or Copies thereof, admitted as Evidence.

XXXIV. And be it further enacted, That all Orders, Resolutions, and Proceedings of the said Trustees shall from Time to Time be fairly written and entered by the Clerk for the Time being of the said Trustees in a proper Book or Books to be kept for those Purposes, with the Names of the Trustees who shall be present at the respective Meetings, and in case of Division upon any Question, stating the Number constituting the Majority, and be signed by the Chairman of such Meeting; and all such Entries therein, being so signed and subscribed, shall be deemed and taken to be Originals, and the same, or true Copies thereof, shall be admitted to be read in Evidence in all Courts whatsoever, in all Causes, Suits, and Actions touching any thing to be done in pursuance of and under the Authority of this Act; and the said Book or Books shall be open to the Inspection of the said Trustees, or any of them, at all seasonable Times, without Fee or Reward.

Same Persons not to be appointed Clerk and Treasurer.

XXXV. Provided always, and be it further enacted, That it shall not be lawful for the said Trustees to appoint the Person who may be appointed their Clerk, or the Partner of any such Clerk, or the Clerk or any other Person in the Service or Employ of any such Clerk, the Treasurer for the Purposes of this Act, or to appoint any Person who may be appointed their Treasurer, or the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer, the Clerk to the said Trustees; and if any Person shall accept both the Offices of Clerk and Treasurer to the said Trustees for the Purpose of this Act, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk, shall accept the Office of Treasurer, or being the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer, shall accept the Office of Clerk in the Execution of this Act, or if any such Treasurer shall hold or accept any Place or

Office

Office of Profit or Trust under the said Trustees other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person who shall sue for the same, to be recovered, with full Costs of Suit, in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than one Imparlance, shall be allowed.

Accounts to be kept of Receipts and Disbursements.

XXXVI. And be it further enacted, That the said Trustees shall and they are hereby required to order and direct a Book or Books to be provided and kept by their Clerk or Clerks for the Time being, in which Book or Books such Clerk or Clerks shall enter or cause to be entered true and regular Accounts of all Sums of Money received, paid, laid out, and expended for the Purposes of this Act, and of the several Articles, Matters, and Things for which any Sum of Money shall have been disbursed, laid out, and paid; which Book or Books shall at all seasonable Times be open to the Inspection of the said Trustees, and any other Person or Persons whose Lands shall be embanked and drained by virtue of this Act, without Fee or Reward; and the said Trustees and Person or Persons shall or may take Copies of or Extracts from the said Book or Books, or any Part or Parts thereof, without paying any thing for the same; and in case the said Clerk or Clerks shall refuse to permit, or shall not permit the said Trustees, or such Person or Persons, or any of them, to inspect the same Book or Books, or to take such Copies or Extracts as aforesaid, every such Clerk shall forfeit and pay any Sum not exceeding Five Pounds, to be levied and recovered in manner herein-after mentioned.

Power to erect Steam Engines.

XXXVII. And whereas it may be deemed necessary and expedient, for the Purpose of facilitating the Discharge of the Waters from the said Drains and Lands contiguous thereto, that one or more Engine or Engines to be worked by Steam should be erected; be it therefore further enacted, That it shall and may be lawful to and for the said Trustees to be elected and appointed as aforesaid, and they and he are hereby authorized and required, at any Time after their Appointment under this Act, to make, erect, and build, or cause to be made, erected, and built, at such Place or Places near the said Dike called *Carlton Dike*, herein-before mentioned, as they the said Trustees may in their Judgment think best, one or more good and substantial Engine or Engines to be worked by Steam, with all proper Machinery, Houses, Sluices, Pits, and other necessary Works, and also to deepen and otherwise improve the said Drains communicating therewith, and also to make and complete such other Ditches, Drains, and Watercourses as in the Judgment of the said Trustees shall be requisite or necessary for facilitating the Discharge of the Waters from off the said open and unembanked Lands, and effecting the Drainage thereof; and the same Engine and Engines, and all other Works incidental thereto, shall, on the same being made, built, erected, and completed, be for ever thereafter vested in, and used, maintained, supported and kept in repair by the said Trustees for the Time being, out

of the annual Rates and Assessments authorized by this Act to be raised and levied as aforesaid.

Trustees to lay a Tax not exceeding 5*l.* per Acre for the Purpose of building the Engines.

XXXVIII. And be it further enacted, That for the Purpose of making, erecting, and building the said Engine or Engines to be worked by Steam as aforesaid, with all proper Machinery, Houses, Sluices, Pits, and other necessary Works, it shall and may be lawful for the said Trustees for the Time being, appointed under this Act, to assess and tax all and every the said open and unembanked Lands with an additional Tax not exceeding the Sum of Five Pounds an Acre, to be raised by and paid to the said Trustees for the Time being, or to their Receiver, Collector or Collectors, by Two equal annual Instalments, at such Time or Times, and in such Proportions, Manner, and Form, as the said Trustees for the Time being shall direct or appoint by any Writing or Writings under their Hands for the Payment thereof.

Tenants on Lease to pay an additional Rent of 5*l.* per Centum.

XXXIX. And be it further enacted, That in all Cases where any of the Lands or Grounds which shall be assessed, taxed, or charged with the said additional Tax of Five Pounds *per* Acre for the Purposes last aforesaid, are held on Lease or Agreement for any Term longer than Two Years, the annual Rent reserved by such Lease or Agreement shall be increased after the Rate of Five Pounds *per Centum per Annum* on the gross Amount of such additional Tax charged and chargeable on the same Lands or Grounds, and become payable from and after such Day or Days as the said Trustees shall in that Behalf declare and appoint.

Proprietors to charge the new limited Tax on their Estates.

XL. And be it further enacted, That it shall and may be lawful to and for the Husbands, Trustees, Committees, or Attornies of or for the Owners or Proprietors of any Part or Parts of the Lands so charged and chargeable with the said additional Tax as last aforesaid, being under Coverture, Minors, Lunatics, or beyond the Seas, or otherwise incapable of acting for themselves, and to and for every of them for the Time being, and to and for the said Owners or Proprietors, being Tenants in Tail or for Life, or Tenants in Tail after Possibility of Issue extinct, or Tenants in Dower, or being seised or entitled in Fee Simple, and to and for every of them respectively for the Time being, by Indenture or Indentures under their respective Hands and Seals, from Time to Time to charge the said Lands belonging to such Owners or Proprietors respectively with any Sum or Sums of Money which shall or may be advanced or applied by him, her, or them respectively in or towards Payment of the said limited Tax; and for securing the Repayment of such Sum or Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said Lands of any such Owner or Proprietor respectively unto any Person or Persons who shall advance and lend such Sum or Sums of Money respectively, either in Fee or for any Number of Years, so as every such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition to cease and be void, or under an express Trust to be surrendered in case and when the Sum or Sums of Money thereby to be secured, with lawful Interest for the same, shall be fully paid and satisfied, at a Time or Times to be appointed in that Behalf, and also

also with a Covenant to pay and keep down the Interest, and so as every such Grant, Mortgage, Lease, or Demise, not being made by Tenant or Tenants in Fee Simple, do also contain a Proviso that the Person or Persons entitled in Remainder or Reversion to the Lands or Grounds therein comprized shall not be liable, upon his, her, or their becoming possessed thereof, to the Payment of any further or larger Arrear of Interest than for Six Months preceding the Time that his, her, or their Title to such Possession shall have commenced; and every such Charge, Grant, Mortgage, Lease, or Demise as aforesaid shall be good, valid, and effectual in the Law for the Purposes hereby intended.

Annual Meetings and annual Taxes.

XLI. And for the better and more effectual maintaining, supporting, repairing, cleansing, and using of the Engines, Drains, Dams, Banks, and other Works herein-before directed to be made for the Purpose of draining and preserving the said open and unembanked Lands, be it further enacted, That it shall and may be lawful to and for the said Trustees, and they are hereby authorized and required, to meet on *Thursday* in *Easter* Week in every Year, at some convenient House within one of the said Parishes of *Metheringham* and *Dunston*, (at all which Meetings their reasonable Expences only shall be allowed them), and the said Trustees shall then and there rate, tax, and assess all and every the Occupier or Occupiers of all and every the said open and unembanked Lands, intended to be embanked and drained by virtue of this Act, by such an equal and proportionable Acre Rate or Tax, not exceeding One Shilling *per* Acre in any one Year, (except in the Case of a further or larger Tax being consented to as herein-after mentioned,) as shall be necessary to pay and discharge the Expences of maintaining, supporting, and using the said Works for draining and preserving the said open and unembanked Lands, and the reasonable Expences only of the said Trustees at their said yearly and other Meetings, and the Salary and Salaries of such Officer or Officers as shall be by them appointed for collecting or receiving such Rates or Taxes, and managing and taking care of the said Engines and Works, and of the other Matters relating to the said Drainage; which said Rates and Taxes the said Trustees are hereby authorized and required to apply accordingly, and to appoint under their Hands such certain Days and Places for the Payment of such Rates and Taxes Half-yearly to the Collectors or Receivers thereof, as they the said Trustees shall respectively think proper.

Further annual Tax may be raised by Consent of Proprietors.

XLII. And be it further enacted, That if in any Year it shall appear to the said Trustees that the said Rate or Tax of One Shilling an Acre shall not be sufficient for supporting, repairing, cleansing, and using the said Works of Drainage, it shall be lawful for the said Trustees to cause public Notice to be given in the Parish Churches of *Metheringham* and *Dunston*, some *Sunday* immediately after Divine Service, or otherwise by Notice upon the principal Doors of the said Churches, that the Proprietors of Lands within the said Embankment and Drainage, or their Deputies or Agents appointed by Writing under their Hands, will meet at some Public House or other convenient Place in the Parish of *Metheringham* or *Dunston* aforesaid, on *Thursday* Sevennight next after such Notice,

Notice, then and there to testify their Consent or Disapprobation to the said Trustees charging and levying for the Year then next following such further equal Acre Rate or Tax over and above the said Rate or Tax of One Shilling an Acre as shall in such Notice be expressed, not exceeding One Shilling an Acre, upon the several Lands within the said Embankment and Drainage, at which Meeting the Proprietors of Lands so to be drained as aforesaid shall have Votes, under the same Restrictions and Qualifications as are herein-before directed and required in the Choice of Trustees; and if the Majority of such Votes shall be given for charging or levying of such equal Acre Rate or Tax as aforesaid, the same being certified under the Hands of such respective Proprietors, Deputies, or Agents voting for such further Tax in the said Book, to be kept in the said Parish Church of *Metheringham*, the said Trustees shall have and are hereby vested with the same Powers and Authorities to charge such further Rate or Tax, or such Parts or Shares thereof as they shall think necessary, over and above the said first-mentioned Rate or Tax of One Shilling an Acre, for supporting, repairing, cleansing, and using the said Works of Drainage, on all the Lands so to be drained; which further Rate or Tax, or Parts or Shares thereof, shall be rated, taxed, and assessed upon the same Persons as the annual Rate or Tax herein-before mentioned, and shall be paid Half-yearly to the said Collectors and Receivers, on such Days and at such Places as the said Trustees shall appoint as aforesaid.

Power to distrain for Taxes.

XLIII. And be it further enacted, That if any Person or Persons so rated, taxed, or assessed as aforesaid shall refuse or neglect to pay the Money so rated, taxed, or assessed on him, her, or them respectively, within Ten Days after the respective Times of Payment to be appointed as aforesaid (public Notice of the said Times of Payment being affixed on the Doors of the Churches in the Parishes wherein the said Lands so taxed shall be situate), at such Place as shall be specified in such Notice, it shall be lawful for such Collector or Receiver, or such other Person or Persons authorized by virtue of any Warrant or Precept under the Hands and Seals of the said Trustees, (which Warrant or Precept such Trustees are hereby empowered and required from Time to Time to grant as occasion shall require), to levy such Sum or Sums of Money so taxed or assessed, and all Arrears thereof, by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) on Demand to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking or making of such Distress and Sale, or otherwise it shall and may be lawful to and for the said Trustees from Time to Time to enter upon the Lands and Grounds so to be embanked, drained, and preserved, respectively belonging to or occupied by such Person or Persons so refusing or neglecting to pay as aforesaid, and the Rents and Profits thereof respectively to receive and take until thereby or otherwise such Taxes, Rates, or Assessments, and all Arrears thereof, so from Time to Time directed to be paid by such Person or Persons as aforesaid, and all Costs, Charges, and Expences occasioned by or attending such Entry and Receipt of the Rents and Profits of such Premises, shall be fully paid and satisfied; and the Tenant or Tenants of all and singular such Lands

and Grounds so to be rated, taxed, or assessed, is and are hereby required and authorized to pay such Sum and Sums so assessed and rated thereon as the same shall become due; and it shall be lawful for such Tenant or Tenants to reimburse him, her, or themselves such Sum or Sums of Money out of the next Rent to become due to his, her, or their Landlord or Landlords respectively, who shall allow the same to be deducted out of his, her, or their Rents accordingly.

Commissioner to account.

XLIV. And be it further enacted, That the said Commissioner shall and he is hereby required to keep an Account in Writing of all Monies by him received, laid out, and assessed on the Parties interested or concerned in the said Embankment and Drainage previous to the Execution of the said Award, and shall at all seasonable Times permit any of the Owners or Proprietors to inspect such Account, with the Vouchers for any Money therein stated to have been paid by him or by his Order, and shall deliver the said Account to the said Owners or Proprietors at the Time of executing the said Award.

Trustees to account.

XLV. And be it further enacted, That from and after the Execution of the said Award or Instrument, the said Commissioner and Trustees respectively for the Time being for executing this Act are hereby respectively required to keep an Account of all Monies received and disbursed by him and them respectively in pursuance thereof, and shall permit any of the Owners or Proprietors at all seasonable Times to inspect such Accounts, and to take Copies thereof or Extracts therefrom as they shall think fit; and the said Commissioner and Trustees respectively shall from Time to Time, on the Appointment of Trustees to succeed them as aforesaid, or within Seven Days next after such Appointment, deliver such Account, and make Payment of all the Money arising by virtue of this Act, and then in their Hands, to the succeeding Trustees, which Money shall be by them laid out and disposed of for the Purposes of this Act.

Power to appoint Officers.

XLVI. And be it further enacted, That the said Commissioner and Trustees respectively, at any of their Meetings to be holden in pursuance of this Act, or at any other Time or Times, by Writing under his or their Hand and Seal or Hands and Seals, shall have full Power and Authority to nominate and appoint One or more proper Person or Persons to be Collector or Collectors, Receiver or Receivers of the respective Taxes and Rates to be assessed and levied by virtue of this Act, and a Clerk or Clerks, and such other necessary Officer or Officers as they shall judge proper for the Management and keeping in repair the said Engines, Banks, and other Works of Drainage to be made by virtue of this Act, and to allow to such Officer or Officers, out of such Rates and Taxes, such yearly or other Salary or Salaries, or Wages, for their Trouble and Pains in executing such Offices, as the said Commissioner and Trustees respectively shall think reasonable, which said Collector or Collectors, Receiver or Receivers, Clerk or Clerks, or other Officer or Officers, shall, before they act in the Execution of their respective Offices, give such Security for the due Execution thereof as the said Commissioner and Trustees respectively shall require; and all such Collectors, Receivers, Clerks,

and other Officers, when thereunto required by the said Commissioner and Trustees respectively, shall give in to such Commissioner and Trustees respectively a true, exact, and perfect Account in Writing under their respective Hands, with proper Vouchers for all Monies which shall have been received and paid by them respectively by virtue of their said Offices to the Time of giving in such Account, and shall pay to the said Commissioner and Trustees respectively, or such Person or Persons as they shall by Writing under their Hands authorize to receive the same, all such Money as shall upon balancing the said Account be adjudged by the said Commissioner and Trustees respectively to be due from such Officers, and deliver up the said Vouchers, and all Books and Writings relating to the said Offices, to the said Commissioner and Trustees respectively; and in case any such Collector, Receiver, Clerk, or other Officer shall not give in and make such Account and Payment as aforesaid, or shall refuse or neglect to deliver up all such Books and Writings to the said Commissioner and Trustees respectively, or to such other Person or Persons as he or they shall order and direct to receive the same, then and in either of the said Cases it shall and may be lawful for any One or more Justice or Justices of the Peace for the Parts of *Kesteven* aforesaid to make inquiry of such Default in a summary Way, and if such Officer or Officers shall be thereof convicted, either by the Confession of the Party, or by the Testimony of One or more Witness or Witnesses upon Oath (which Oath the said Justice or Justices is and are hereby authorized and required to administer), such Justice or Justices shall commit the Party to the Common Gaol of the said Parts of *Kesteven*, there to remain until he shall have made a perfect Account and Payment as aforesaid, and delivered up all such Books and Writings in his Custody, or shall have compounded and agreed with the said Commissioner and Trustees respectively, which Composition and Agreement the said Commissioner and Trustees are hereby respectively empowered to make.

This Act not to prejudice the Works of the Witham Navigation.

XLVII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, obstruct, or defeat any of the Works made or to be made in pursuance of the before-recited Act made in the Second Year of the Reign of His said late Majesty, or to empower the Commissioner or Trustees acting by virtue of this Act, or any of the Owners or Proprietors of Lands and Grounds hereby intended to be embanked or drained, to invalidate, lessen, alter, or take away any of the Rights, Powers, and Authorities which by the said Act were vested in all or any of the Commissioners acting under the same, but that the same shall be and continue in as full Force, to all Intents and Purposes, as if this Act had never been made, any thing herein contained to the contrary in anywise notwithstanding.

Persons destroying Works guilty of Felony.

XLVIII. And be it further enacted, That if any Person or Persons whomsoever shall, at any Time or Times hereafter, wilfully and maliciously cut, break down, destroy, or damage any Bank, Mill, Engine, or Sluice, or any other of the Works which shall be erected and made for the draining and embanking the said open and unembanked Lands, or any Part thereof, and shall thereof be lawfully convicted, such

Person or Persons shall be deemed guilty of Felony, and shall be subject and liable to the like Pains and Penalties as in Cases of Felony; and the Court by and before whom such Person or Persons shall be tried, shall and have hereby Power and Authority to punish such Felons in like Manner as other Felons are directed to be punished by the Laws and Statutes of this Realm.

For securing transient Offenders.

XLIX. And be it further enacted, That it shall be lawful for any Collector, Surveyor, or other Officer of the said Commissioners or Trustees, and such Person or Persons as he shall call to his Assistance, to seize and detain any Person or Persons, being unknown to such Collector, Surveyor, or other Officer who shall commit any Offence or Offences against this Act, and to convey him, her, or them before any One or more of the Justice or Justices of the Peace for the County where the Offence shall have been committed, without any other Warrant or Authority than this Act for so doing, and such Justice or Justices of the Peace is and are hereby respectively empowered and directed to proceed immediately to the Conviction or Acquittal of such Offender or Offenders.

Recovery and Application of Penalties.

L. And be it further enacted, That all Penalties and Forfeitures inflicted or imposed by this Act (the Manner of levying and recovering whereof is not otherwise particularly directed) may, in case of Nonpayment thereof, be recovered in a summary Way, by the Order and Adjudication of any One Justice of the Peace for the said County of *Lincoln*, on Complaint to him for that Purpose exhibited by the Oath of any Witness or Witnesses, or on the Confession of the Party offending (which Oath such Justice is hereby authorized to administer); and in default of Payment of such Penalties or Forfeitures, the same shall be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal of such Justice, rendering the Overplus (if any) on Demand to the Party or Parties whose Goods and Chattels shall be so distrained (the reasonable Charges of such Distress and Sale being first deducted); and one Moiety of the Penalties and Forfeitures, when recovered, shall be paid to the Informer, and the other Moiety thereof shall be paid to the Overseers of the Poor of the Parish or Place where the Offence shall be committed, for the Use and Benefit of the Poor of such Parish or Place; and in case such Penalties and Forfeitures shall not be forthwith paid, it shall be lawful for such Justice, and he is hereby authorized and required, to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can conveniently be made to such Warrant of Distress, unless the Offender or Offenders shall give sufficient Security to the Satisfaction of such Justice for his, her, or their Appearance before such Justice, or before some other Justice of the Peace for the said County of *Lincoln*, on such Day or Days as shall be appointed for the Return of such Warrant of Distress (such Day or Days not being more than Seven Days from the taking of any such Security), and which Security the said Justice is hereby empowered to take by way of Recognizance or otherwise; but if upon the Return of such Warrant it shall appear that no sufficient Distress can be had whereupon to levy the said Penalty or Penalties, and such Costs as aforesaid, and the same shall not be forthwith paid, or in case it shall

shall appear to the Satisfaction of any such Justice, upon the Confession of the Offender or Offenders or otherwise, that he, she, or they hath or have not sufficient Goods and Chattels whereupon such Penalties, Forfeitures, Costs, and Expences can be levied if a Warrant of Distress were issued, such Justice shall not be required to issue such Warrant of Distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by Warrant under his Hand and Seal, to commit such Offender or Offenders to the Common Gaol or House of Correction for the County or Place where such Offence shall be committed, there to remain for any Time not exceeding Three Calendar Months, unless such Penalty or Forfeiture shall be sooner paid and satisfied, and all Costs and Charges attending such Proceedings as aforesaid, to be ascertained by such Justice, or shall otherwise be discharged by due Course of Law.

Convictions to be drawn up in the following Form.

LI. And for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That all and every Justice or Justices of the Peace before whom any Person or Persons shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up according to the following Form, or any other Form to the same Effect, as the Case shall happen; (that is to say),

'Lincoln, to wit.' BE it remembered, That on the Day of in the Year of our Lord *A. B.* is convicted before me *C. D.* One of His Majesty's Justices of the Peace for the County of [*specifying the Offence, and the Time and Place when and where the same was committed, as the Case may be*] contrary to an Act passed in the Seventh Year of the Reign of King *George* the Fourth, intituled *An Act, &c.* [*here set forth the Title of this Act*]. Given under my Hand and Seal the Day and Year first above written.'

Distress not unlawful for Want of Form.

LII. And be it further enacted, That when any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damage in an Action upon the Case.

Limitation of Actions.

LIII. And it is hereby further enacted, That if any Action, Suit, or Information shall be commenced or prosecuted against any Person or Persons for any thing done or to be done in pursuance of this Act, or in the Execution of the Powers and Authorities hereby given, every such Action, Suit, or Information shall be commenced or made within Six Calendar Months next after the Fact committed, and not afterwards, and shall be laid or brought in the County where the Cause of Action shall have

have arisen, and not elsewhere; and the Defendant and Defendants in such Action or Suit shall and may plead the General Issue, Not Guilty, and if in Replevin, may justify and avow, by virtue of this Act, as Persons acting by Authority of Commissioners of Sewers are enabled to do, and give this Act and the special Matter in Evidence, without specially pleading the same otherwise than as aforesaid, at any Trial to be had thereupon, and that the Fact alleged to have been done was done in pursuance and by the Authority of this Act; and if the same shall appear to have been so done, or if any Action or Suit shall be brought after the Time herein-before limited for bringing the same, or shall be brought in any other County or Place than as aforesaid, then the Jury shall find for the Defendant or Defendants, Avowant or Avowants; or if the Plaintiff or Plaintiffs shall become Nonsuit, or forbear Prosecution, or discontinue his, her, or their Suit or Suits, or if Judgment shall be given against him, her, or them upon Demurrer or otherwise, then and in any of the said Cases the Defendant or Defendants, Avowant or Avowants, shall recover Treble Costs, for which he, she, or they shall have the like Remedy as where Costs by Law are awarded.

Appeal.

LIV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of this Act by the said Commissioner (except in such Cases where the Orders and Determinations of the said Commissioner are hereby declared to be final, binding, and conclusive, and except in Cases where an Issue at Law may be tried as herein-before is mentioned), then and in every such Case he, she, or they may appeal to any General or Quarter Sessions of the Peace to be holden for the said Parts of *Kesteven*, within Four Calendar Months next after the Cause of Complaint shall have arisen, giving to the said Commissioner and to the Party or Parties concerned Notice in Writing of such Appeal, and of the Matter thereof, within Three Days after the Cause of Complaint shall have arisen, and Ten Days at the least before such General or Quarter Sessions; and the Justices (not interested in the Premises) in such Sessions assembled, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties made liable to pay the same, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive to all Parties concerned, and shall not be removed or removable by Certiorari or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then and in such Case the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and such Costs shall be levied in manner last aforesaid.

Public Act.

LV. 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 other Persons whomsoever, without being specially pleaded.

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