ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

****

Cap. xiv.

An Act to amend "The *Norfolk* Estuary Act, 1846," and "The *Norfolk* Estuary Amendment Act, 1849." [9th *May* 1853.]

WHEREAS by an Act passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled *An Act for enclosing and reclaiming from the Sea certain Tracts of Land forming Part of the Great Estuary called the* Wash, *between the Counties of* Norfolk *and* Lincoln, it was enacted (among other things) that certain Persons therein named should be incorporated by the Name of "The Company of Proprietors of the *Norfolk* Estuary," and that the said Company should commence the Works thereby authorized by forming a Two-Mile Cut across the Marshes between *Lynn* Harbour and the present Channel, below the *Ballast Bank*, in a Line to be laid out so as to correspond with the then present Harbour Lines, and to be subject to the Approval of the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral, to be signified in Writing under the Hand of the Secretary of the Admiralty; and that the said Company should also form a new Cut or Channel Two Miles in Length from the lower End of the said *Marsh Cut*, across the "*Vinegar*

9 & 10 Vict. c. 388.

Middle," to fall again into the then present Channel of the River *Ouse* near the *Breast Beacon*, in a fair Line to be approved as aforesaid, so as to reclaim the Portions of the Lands which would be within a Line drawn across the Estuary to the Shores on each Side in a due East and West Direction from the Point where the said *Marsh Cut* would fall into the River; and that such Part of the said Cut or Channel, and the Channel below the same, as should be situate to the Eastward of the extended Mid-channel Line therein-after mentioned, should be of such Capacity, and the same, and also the Banks and Forelands thereof and the Works connected therewith, should be made in such Manner, as Three Civil Engineers, one of whom should be appointed by the Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, another by the Mayor, Aldermen, and Burgesses of the Borough of *King's Lynn*, and the Third by the said Company, or, in case the said Three Engineers should differ in Opinion, as a Civil Engineer, to be appointed by the Lord High Admiral for the Time being, or the Commissioners for executing the Office of Lord High Admiral, whose Decision should be final, should from Time to Time, by Writing signed by them or him, direct: And whereas it was by the said Act further provided, that at such Time after the said new Cut should have been completed to and through the Bank adjoining a Place called *Howard's Sluice*, and a Passage for the Waters of the *Ouse* obtained through the same into the said Estuary, as Three Civil Engineers, to be appointed as aforesaid by the Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, the Mayor, Aldermen, and Burgesses of the Borough of *King's Lynn*, and by the said Company, and, in case they should differ, an Engineer to be appointed as aforesaid by the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, should deem proper, the said Company should proceed with all practicable Despatch to form and complete an Embankment across the Channel of the River *Ouse* and the Lands adjoining, from the North Side of the said new Cut at or near its Junction with the present Harbour at *King's Lynn* to the opposite Side of the said Harbour, and which Embankment should be of such Dimensions and so formed and constructed as to resist the tidal and other Waters of the River *Ouse*, and to divert and turn them into the said new Cut: And whereas by another Act of Parliament passed in the Session of the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled *An Act to amend the* Norfolk *Estuary Act*, 1846, *and to enable the* Eau Brink *Commissioners and the Corporation of* King's Lynn *to contribute towards the Undertaking, and for other Purposes connected therewith*, it was amongst other things enacted, that the said Company should, after the passing of that Act, with all convenient Despatch, and as the first Work to be executed by them under the Authority of "The *Norfolk* Estuary Act,

12 & 13 Vict. c. 95.

Act, 1846," commence and proceed in the making and executing of the said Two-Mile Cut across the Marshes between *Lynn* Harbour and the then present Channel below the *Ballast Bank*, and the Works appertaining thereto, and also the said Cut across the *Vinegar Middle* so intended to fall into the then present Channel of the said River *Ouse* near the *Breast Beacon* as aforesaid, and the Works appertaining thereto, and when and so soon as the same should be respectively completed should cause the Waters of the said River *Ouse* and Harbour of *Lynn* to pass and flow through the said Cuts; and that the said Cuts across the Marshes and *Vinegar Middle* should be so constructed as that the Bottom of the said Cuts should, at the Commencement of the said first-mentioned Cut, be at least Ten Feet below the Level of the Zero Point on the then present Gauge on the *Eau Brink Free Bridge* at *Lynn*, and should from that Point throughout both the said Cuts increase in Depth after the Rate of at least Four Inches *per* Mile; and the said Cuts should be of the Width of at least Two hundred and fifty Feet at the Bottom of the upper End of the said first-mentioned Cut, and should increase in Width after the Rate of Fifteen Feet at least *per* Mile throughout; and that the Sides of the said Cuts should be constructed with proper and convenient Slopes of not less than Four Feet horizontal Measurement to One Foot of vertical Measurement: And whereas it was by the same Act further provided, that the Commissioners of Drainage acting in execution or under the Authority of the said several therein-recited Acts for improving the Drainage of the *Middle* and *South Levels* of the Fens should contribute the Sum of Sixty thousand Pounds Sterling by and out of the Tolls vested in or payable to the said Commissioners of Drainage by virtue of the same Acts or any of them, or the Act now in recital, and by such Sale or Mortgage of the Lands and Property of the said Commissioners as therein-after mentioned, and also that the Mayor, Aldermen, and Burgesses of the said Borough of *King's Lynn* should contribute the like Sum of Sixty thousand Pounds by and out of the Tonnage Duties therein-after authorized to be received, making together the Sum of One hundred and twenty thousand Pounds, towards the making and executing of the said new Cuts and the Works connected therewith, by "The *Norfolk* Estuary Act, 1846," authorized to be made and executed, such Contributions to be paid in the Manner therein mentioned: And whereas it was by the same Act further provided, that it should not be lawful for the said Company, save as therein-after expressly mentioned, to begin to execute or construct, or to pay, lay out, or expend any Moneys in or about the Execution or Construction of any Works, other than the said Two-Mile Cut across the Marshes, and the said Cut across *Vinegar Middle*, and the Works appertaining thereto, and necessary for the Passage of the Waters of the said River *Ouse* through the same, until the said Cuts, and the

Works

Works appertaining thereto and connected therewith, should be fully completed, and the Completion thereof certified in manner therein mentioned; and that when and so soon as the said new Cuts across the Marshes and the *Vinegar Middle*, and the Works connected therewith, should be fully completed, in the Opinion of the Engineer for the Time being of the said Company, and the Waters of the said River *Ouse* diverted into and along the same, he should notify the same by Writing under his Hand to the Engineer for the Time being of the said Commissioners of Drainage, and both the said Engineers should thereupon proceed to inspect the same Works, and if they should be satisfied with the same they should grant a Certificate of such Completion and Diversion by Writing under their Hands: And whereas it was by the same Act further provided, that if the said Two-Mile Cut across the Marshes and the said Cut across *Vinegar Middle*, and the Works connected therewith, should not be fully completed, and the Waters of the River *Ouse* diverted and caused to flow through the same, on or before the First Day of *September* One thousand eight hundred and fifty-four, it should be lawful for the said Drainage Commissioners and also for the Mooring Harbour Commissioners of the Port of *King's Lynn*, described in the said Act, to sue for and recover all Sums of Money which previous to the said First Day of *September* One thousand eight hundred and fifty-four should have been paid and advanced by the Commissioners by whom or on whose Behalf such Action should have been brought or instituted, to the said Company, together with Interest after the Rate therein mentioned: And whereas the Three Civil Engineers to whom it was by the said first-recited Act authorized to be referred to direct the Capacity of the said Cut or Channel, and the Channel below the same Eastward of the extended Mid-channel Line, and the Manner in which the same, and also the Banks and Forelands thereof, and the Works connected therewith, should be made, did, on the Third Day of *August* One thousand eight hundred and fifty, make their Award, and prescribe the Dimensions of both the said Cuts: And whereas the said Company of Proprietors of the *Norfolk* Estuary have commenced the Execution of the said first-mentioned Cut across the Marshes, and have made considerable Progress therein: And whereas it has been held that the said Acts of Parliament do not give the Right to the said Company to divert and turn the Waters of the said River *Ouse* into such Cut, or to permit the Waters of the said River or of the Harbour of *Lynn*, or of the Estuary, to pass along the Course of the said Cut, for the Purpose of assisting in completing the same to the Dimensions provided by the said Acts, or to proceed to form and complete the said Embankment for stopping up the present Channel of the River *Ouse*, until after the said Cut across the Marshes is completed: And whereas it is expedient, in order to insure the Completion of the said Cuts and Works, that the said Acts should be altered

and

and amended as herein-after provided: And whereas it is also expedient that the respective Times limited by the said recited Acts for the compulsory Purchase of Lands, and for the Completion of the said Cuts and Works appertaining thereto, and for effectually proceeding with and completing the Embankment and Reclamation of the Tracts of Land thereby authorized to be embanked and reclaimed, should be extended, and the Period aforesaid within which the said Company should be required to refund to the said Drainage Commissioners and the said Mooring Harbour Commissioners all Moneys advanced by them towards the making of the said Cuts, in case they are not completed by the First Day of *September* One thousand eight hundred and fifty-four, should be postponed; but the same 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.

I. That in citing this Act in other Acts of Parliament and in legal Instruments it shall be sufficient to use the Expression, "The *Norfolk* Estuary Amendment Act, 1853."

Power forthwith to divert Waters of River Ouse, &c. into Marsh Cut.

II. That, notwithstanding anything to the contrary thereof contained in "The *Norfolk* Estuary Act, 1846," or the said Award made in pursuance of it, or in "The *Norfolk* Estuary Amendment Act, 1849," it shall be lawful for the said Company of Proprietors of the *Norfolk* Estuary, immediately after the passing of this Act, so to proceed in the Execution of the Cuts and Works by the said Acts authorized as that the Waters of the River *Ouse* and Harbour of *Lynn*, and *Norfolk* Estuary, or any of them, may forthwith freely pass along the Course of the said partly executed Two-Mile Cut across the Marshes, and assist, by Scour or otherwise, in deepening, widening, and completing the same, according to the Dimensions prescribed for the same by "The *Norfolk* Estuary Act, 1846," and "The *Norfolk* Estuary Amendment Act, 1849," and the said recited Award dated the Third Day of *August* One thousand eight hundred and fifty, and also assist in forming and completing the said other Cut across the *Vinegar Middle*.

Embankment may be forthwith made.

III. That it shall be lawful for the said Company, notwithstanding anything to the contrary contained in the said recited Acts and Award, and notwithstanding the Noncompletion of the said Cut across the Marshes, and without the Necessity of obtaining the Consent of or giving previous Notice to any Person or Body whomsoever, forthwith, or so soon as the said Company shall deem expedient, to proceed

proceed to form and complete the said Embankment so authorized by the said first-recited Act to be made across the present Channel of the River *Ouse* as aforesaid.

Nothing to exempt Company from Liability to repair Damage done to Drainage and Navigation.

IV. Provided always, That nothing in this Act contained shall extend to exempt the said Company from Liability, as in the said recited Acts provided, at their own Costs, to make good any Injury or Damage (if any) which may be occasioned to the Drainage or Navigation, by reason or in consequence of their Works, or to exempt the said Company from their Liability so to construct and maintain the Works at the Costs of the said Company as to insure at all Times the Preservation of at least the same Lowness of Ebb Tide as is provided by the said first-recited Act, but all such Liability shall to all Intents and Purposes remain as if this Act had not been passed.

Extension of Time for the compulsory Purchase of Lands.

V. That the Term limited by "The *Norfolk* Estuary Amendment Act, 1849," for the Exercise of the Powers of the Company for the compulsory Purchase of Lands authorized to be taken for the Purposes of the said recited Acts or either of them, shall be and is hereby prolonged and extended for the Term of Five Years, to be computed from the passing of this Act.

Parties aggrieved by Extension of Time may have Compensation for additional Damage.

VI. That the Justices, Arbitrators, Umpires, or Juries respectively, as the Case may be, who, under the Provisions of the recited Acts or this Act, shall award or assess the Compensation to be made by the Company to the Owners or Occupiers of or other Persons interested in any of the Lands the Term limited for the compulsory Purchase whereof is by this Act extended, which shall be taken or used for the Purposes of the Cuts or Works by the said recited Acts or this Act authorized, or which may be injuriously affected by the Construction thereof, shall, in estimating the Amount of such Compensation, have regard to and assess Compensation for the additional Damage (if any) sustained by such Owners, Occupiers, or other Persons by reason of the Extension of the said Term hereby granted.

Existing Contracts and Notices to take Lands not to be affected.

VII. That nothing herein contained shall in anywise prejudice or affect any Contract entered into or Notice given by the said Company, before the passing of this Act, for purchasing, taking, or using any Lands which under the said recited Acts the said Company is entitled to purchase, take, or use, but every such Contract and Notice respectively shall be construed and shall take effect, and the same Proceedings may be had thereunder, and all Parties thereto shall be entitled to the same Rights and Remedies in respect thereof, both at Law and in Equity, as if this Act had not been passed.

VIII. That

Term limited for Completion of Works prolonged and extended.

VIII. That the Term limited by "The *Norfolk* Estuary Amendment Act, 1849," for the Completion of the new Cuts and the Works appertaining thereto, authorized by the said recited Acts or either of them to be made, shall be and the same is hereby prolonged and extended for the Term of Seven Years from the passing of this Act.

Time for embanking and reclaiming Lands prolonged and extended.

IX. That the Term of Eight Years, within which, by "The *Norfolk* Estuary Amendment Act, 1849," the Company were to proceed with the Embankment and Reclamation of the said Tracts of Land, shall be prolonged and extend to the Term of Eight Years, to be computed from the passing of this Act, and that the Term of Twenty-one Years, within which by the same Act such Embankment and Reclamation were to be completed, shall be prolonged and extended to the Term of Twenty-one Years, to be computed from the passing of this Act.

Postponing Period for Contributions to be repaid by the Company in case certain Works not then completed.

X. That the Time limited by the Fifty-third Section of "The *Norfolk* Estuary Amendment Act, 1849," on and after which it should be lawful for the said Drainage Commissioners and also the said Mooring Harbour Commissioners to sue for and recover from the Company all Sums of Money previously paid and advanced to such Company by the said Commissioners respectively, in case the said Two-Mile Cut across the Marshes, and the said Cut across the *Vinegar Middle*, and the Works connected therewith, should not be then fully completed, and the Waters of the River *Ouse* diverted and caused to flow through the same, shall be and the same is hereby postponed and deferred from the First Day of *September* One thousand eight hundred and fifty-four to the First Day of *September* One thousand eight hundred and sixty, and the said Section shall be read and construed as if the Words "First Day of *September* One thousand eight hundred and sixty" were substituted therein for the Words First Day of *September* One thousand eight hundred and fifty-four, wherever the latter Words occur.

Extension of Time not to affect Contributions.

XI. That neither the Extension by this Act granted of the Term limited by the "*Norfolk* Estuary Amendment Act, 1849," for the Completion of the said Cuts and Works or either or any of them, nor any Variations by this Act authorized in the Mode or Order of executing the said Cuts and Works, shall release, discharge, diminish, or prejudice the Payment of the respective Contributions of Sixty thousand Pounds each payable by the said Drainage Commissioners and the said Mayor, Aldermen, and Burgesses as aforesaid, but those Contributions shall be and continue payable, and all the Clauses, Powers, and Provisions of the "*Norfolk* Estuary Amendment Act, 1849," relating to those Contributions or either of them, and the raising,

raising, Recovery, and paying of the same, shall take effect and continue in force, and all Mortgages and Bonds made and granted, or hereafter to be made and granted, for the Purpose of raising those Contributions or either of them, or any Part thereof, shall be and continue as good, valid, and effectual, as if the extended Period by this Act granted for the Completion of the said Cuts and Works had been provided by the "*Norfolk* Estuary Amendment Act, 1849," instead of the Time therein specified for their Completion, and as if the Execution of the said Cuts and Works in the Mode and Manner by this Act authorized had been authorized by the "*Norfolk* Estuary Amendment Act, 1849," and as if, in the said Fifty-third Section of that Act, the First Day of *September* One thousand eight hundred and sixty had been named throughout instead of the First Day of *September* One thousand eight hundred and fifty-four.

Act not to affect Sections 32. and 111. of 9 & 10 Vict. c. 388.

XII. That nothing in this Act contained shall extend or be construed to extend to repeal or alter the Sections 32. and 111. of "The *Norfolk* Estuary Act, 1846," but such Sections shall be of the same Force and Effect as if this Act had not been passed, and as regards the Purposes of this Act shall be also incorporated with and read as Part of this Act.

Power to Admiralty to order a local Survey at the Expense of Company.

XIII. That if at any Time or Times it shall be deemed expedient by the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, to order a local Survey and Examination of any Works of the Company in or affecting any tidal Water or navigable River, or of the intended Site thereof, the Company shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Company, and if not paid upon Demand may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered, with Costs, as a Penalty is or may be recoverable from the Company.

If Works affecting tidal Waters are abandoned, the Admiralty may remove them, at Expense of Company.

XIV. That if any Work now or hereafter to be executed or constructed by the Company in or across any tidal Water or navigable River, or if any Portion of any such Work which affects any such Water or River, or Access thereto, shall be abandoned, or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, to fill up, abate, or remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Company, and the Amount thereof shall be a Debt due from the Company to the Crown, and be recoverable accordingly, with Costs of Suit.

XV. Pro-

Saving Rights of Mr. Bentinck.

XV. Provided always, That nothing in this Act contained shall extend or be construed to extend to take away, defeat, invalidate, alter, lessen, or affect in anywise howsoever any of the Powers, Estates, Rights, or Interests of *George William Pierrepont Bentinck*, his Heirs or Assigns, by the said "*Norfolk* Estuary Act, 1846," and the said "*Norfolk* Estuary Amendment Act, 1849," or by either of the said Acts respectively reserved or given, save and except so far as the same may interfere with the making and completing of the said Cuts and the Banks and Forelands thereof by the said Company authorized to be done, performed, or executed; and further, that nothing in this Act contained shall in anywise prejudice or alter the Rights or Powers by the said "*Norfolk* Estuary Act, 1846," and the said "*Norfolk* Estuary Amendment Act, 1849," or by either of the said Acts, given or reserved to the said *George William Pierrepont Bentinck*, his Heirs and Assigns, to try such Rights and Interests as in the said Acts respectively, or in One of them, is mentioned, within Six Years next after the passing of the said Acts respectively, or to refer the Determination of such Rights and Interests to Arbitration, as in the said Acts respectively, or in One of them, is mentioned, except that it shall be lawful for the said *George William Pierrepont Bentinck* to try such Rights or Interests in all respects as in the said Acts respectively, or in One of them, is mentioned, within Six Years after the passing of this Act, instead of within Six Years from the passing of the said Acts respectively, and in all respects and in manner in the said Acts respectively mentioned, and as if the same Power or Provision were subject to the Alteration extending the Time for the Trial of such Rights or Interests herein repeated and set forth: Provided always, that for all Land, if any, belonging to the said *George William Pierrepont Bentinck*, taken for the Purpose of the said Cuts, Banks, and Forelands thereof, he shall receive Compensation in the manner prescribed in "The Lands Clauses Consolidation Act, 1845;" and provided also, that nothing herein contained shall repeal, prejudice, or affect the Rights reserved to the said *George William Pierrepont Bentinck*, his Heirs, Executors, Administrators, and Assigns, or the Liabilities of the said Company in the said "*Norfolk* Estuary Act, 1846," and the said "*Norfolk* Estuary Amendment Act, 1849," or in either of the said Acts, touching the Maintenance and Repair of the said Banks, Fences, or Boundaries of or adjoining to the Lands of the said *George William Pierrepont Bentinck*, and the Costs, Damages, and Expenses which may be incurred by reason of any Default in the Maintenance of the same.

Saving the Rights of Her Majesty and the Duke of Cornwall in

XVI. That nothing contained in this Act, or in the Acts herein recited or referred to, shall extend to authorize the Company to purchase, take, use, or interfere with any Land, Soil, or Water, or any Rights in respect thereof, belonging to Her Majesty in right of the Duchy

right of the Duchy.

Duchy of *Cornwall*, without the Consent in Writing of Two or more of the principal Officers of the said Duchy, and which Consent such principal Officers, or any Two of them, are hereby authorized and empowered to give, or belonging to the Duke of *Cornwall* for the Time being, without the Consent of the said Duke, testified in Writing under the Privy Seal of the said Duke, first had and obtained for that Purpose, or to prejudice, diminish, alter, or take away any of the Rights, Profits, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors, in right of the Duchy of *Cornwall*, or in or by the Duke of *Cornwall* for the Time being.

Saving the Rights of the Crown.

XVII. That nothing whatsoever contained in this Act shall extend to divest, prejudice, diminish, alter, or take away any of the Estates, Rights, Privileges, Powers, or Authorities which now are or hereafter may be vested in or enjoyed by Her Majesty, Her Heirs or Successors.

Expenses of Act.

XVIII. That all the Costs, Charges, and Expenses of obtaining and passing this Act, and preparatory and incidental thereto, shall be paid by the said Company.

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