ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 118.

An Act for amending an Act, passed in the Forty-first Year of the Reign of His present Majesty, for more effectually draining certain Tracts of Land called *Wildmore Fen*, and the *West* and *East Fens*, in the County of *Lincoln*, and other Low Lands and Grounds lying contiguous or adjoining thereto.

[5th *July* 1803.]

WHEREAS an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for the better and more effectually draining certain Tracts of Land called* Wildmore Fen, *and the* West *and* East Fens, *in the County of* Lincoln, *and also the Low Lands and Grounds in the several Parishes, Townships, and Places, having Right of Common on the said Fens, and other Low Lands and Grounds lying contiguous or adjoining thereto*, wherein was recited an Act, passed in the Second Year of the Reign of His said present Majesty, intituled, *An Act for draining and preserving certain Low Lands called the Fens, lying on both Sides 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*; and it was by the said Act, passed in the Forty-first Year of the Reign of His present Majesty, among other Things, enacted, that certain Persons therein named, and their Successors, should be and they were thereby appointed Special Commissioners for carrying into Execution the several Powers and Authorities vested 41 Geo 3. Special Commissioners to be appointed.

To build a Sea Sluice near *Maud Foſter*'s Gowt.

veſted in them by the ſaid Act now in Recital; and that the ſaid Special Commiſſioners ſhould in the Firſt Place build or cauſe to be built, at or near the Place where *Maud Foſter*'s Gowt then ſtood and now ſtands, a new Sea Sluice or Gowt, with a Carriage Bridge over it of Sone and Bricks, ſupported by Piling or by inverted Arches, the Floor thereof to be Two Feet at leaſt lower than the Sill of the then and preſent *Maud Foſter*'s Gowt, and its neat Capacity or clear Waterway to be Forty Feet wide at leaſt, with Three or more Pair of pointing Doors to the Seaward to ſhut with the Flow of the Tides, and alſo Frames, provided with Drop or Draw Doors on the Land Side or to Landward, to be ſhut occaſionally as the ſaid Special Commiſſioners, and alſo the General Commiſſioners appointed under and by virtue of the ſaid Act of the Second Year of His preſent Majeſty's Reign, ſhould direct, in order to retain freſh Waters in dry Seaſons for the Uſe of Cattle, the Top of ſuch Draw Doors to be gauged to ſuch Height as to retain the Water of *Maud Foſter*'s Drain not higher at ordinary Seaſons than Two Feet below the medium Surface of the loweſt Lands that drain thereby; and ſhould proceed at the ſame Time to ſcour out, cleanſe, widen, deepen,

And to ſcour out, &c. *Maud Foſter*'s Drain.

and enlarge, or cauſe to be ſcoured out, cleanſed, widened, deepened, and enlarged, the ſaid Drain called *Maud Foſter*, from the Sea Gowt to *Cowbridge*, ſo that the ſame ſhould not be leſs than Three Feet nor more than Six Feet deeper than it was then and now is, nor leſs than Thirty Feet wide at Bottom, with a Batter of not leſs than Three Feet on each Side to every Foot in Depth: And it was alſo further enacted, that the ſaid Special Commiſſioners might, and they were thereby authorized and empowered to cauſe a new Gowt to be made and erected near or adjoining to the ſaid new Sea Sluice or Gowt therein-before directed to be built at or near the Place where the ſaid *Maud Foſter*'s Gowt then ſtood and now ſtands, the ſaid new Gowt to be made with Three Arches or Openings, of not leſs than Ten Feet clear Waterway each, and the Sill or Floor thereof to be laid as low at the leaſt as the Sill of the then and preſent *Maud Foſter*'s Gowt, and with ſuch Headway as the ſaid Special Commiſſioners ſhould think proper, with ſufficient Stop Gates or Sluices of not leſs than Thirty Feet Waterway, and the Sills or Floors thereof to be laid as low at the leaſt as the Sill or Floor of the ſaid new Sea Sluice or Gowt, in order that the ſaid Stop Gates or Sluices might occaſionally open a Communication between the ſaid *Maud Foſter*'s Drain and the Catchwater Drain therein-after provided; and the ſaid Special Commiſſioners were thereby authorized and empowered to make or cauſe to be made a new Cut or Catchwater Drain to communicate with the River *Witham*, at or near the Place where the new Sea Sluice or Gowt therein-before directed to be built ſhould be erected, and be continued from thence through certain incloſed Lands and Grounds in the Pariſhes of *Skirbeck* and *Boſton*, or One of them, nearly in a parallel Line, and in the ſame Direction with *Maud Foſter*'s Drain, and as near thereto as conveniently might be, to the South End of and to communicate with *Stonebridge* Drain at or near *Cowbridge*; which ſaid laſt mentioned Cut or Drain ſhould be made not leſs than Thirty Feet wide at Bottom, with a Batter of not leſs than Three Feet on each Side to every Foot in Depth: And whereas the ſaid Special Commiſſioners have proceeded to put the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty into Execution, and have made great Progreſs in executing ſeveral of the Works thereby directed to be made and done; but the Powers and Authorities thereby given and granted, have been found inſufficient for making an effectual and complete Drainage for the Low Lands and Grounds in the ſaid *Weſt* and *Wildmore Fens*, inaſmuch as the Drainage of the Downfal and Soakage Waters of thoſe Lands, through the ſaid *Maud Foſter*'s Gowt, is, by Means

To make a new Gowt near the ſaid Sea Sluice.

Weſt Fen Catchwater Drain.

And to make a new Cut or Catchwater Drain from the ſaid Sea Sluice or Gowt, in a parallel Line with *Maud Foſter*'s Drain, to communicate with *Stonebridge* Drain at *Cowbridge*.

Proviſions 41 Geo. 3. are inſufficient for effectually Draining the Weſt *Wildmore Fens*, &c.

of

of the over-riding of the Waters of the River *Witham* in Time of Rains or Flood Seasons, impeded or rendered uncertain and ineffectual, which Inconvenience and Disadvantage would be obviated or removed by making a new Cut or Drain from *Frieston* Common to *Luke's Corner*, there to communicate with *Newdike* Drain, as herein-after mentioned, whereby the said Cut or Catchwater Drain so directed to be made as aforesaid, will become unnecessary; and the Expence of erecting the said new Gowt, and of cutting through a large Tract of very high and valuable Land, saved and avoided, to the great Benefit and Advantage of the several Persons interested in the said Drainage: But as such beneficial Purposes cannot be accomplished without the 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, from and after the passing of this Act, so much of the said recited Act, passed in the Forty-first Year of the Reign of His present Majesty, as relates to the building a new Sea Sluice or Gowt, at or near the Place where *Maud Foster*'s Gowt now stands, and to the scouring out, cleansing, widening, deepening, and enlarging the said Drain called *Maud Foster*'s Drain, from the Sea Gowt to *Cowbridge*, and as relates to the building of a new Gowt near or adjoining to the said Sea Sluice or Gowt, and to the making a new Cut or Catchwater Drain to communicate with the River *Witham*, at or near the Place where the said new Sea Sluice or Gowt thereby directed to be erected, and to be continued from thence through certain inclosed Lands and Grounds in the Parishes of *Skirbeck* and *Boston*, or One of them, nearly in a parallel Line, and in the same Direction with *Maud Foster*'s Drain to the South End of and to communicate with *Stonebridge* Drain at or near *Cowbridge*, shall be and the same is hereby repealed.

Certain Provisions in the Act of 41 Geo. 3. repealed.

II. And be it further enacted, That the said Special Commissioners acting under and by virtue of the said recited Act of the Forty-first Year of the Reign of His present Majesty, shall, and they are hereby authorized and empowered, to build or cause to be built, at or near the Place where *Maud Foster*'s Gowt now stands, a new Sea Sluice or Gowt, with a Carriage Bridge over it of Stone and Bricks, supported by Piling or inverted Arches, the Floor thereof to be laid not more than Two Feet lower than the Sill of the present *Maud Foster*'s Gowt, and its neat Capacity or Clear Waterway to be not more than Forty Feet, with Two or more pointing Doors to the Seaward, to shut with the Flow of the Tides, and also Frames provided with Drop or Draw Doors on the Land Side or to Landward, to be shut occasionally, as the said Special Commissioners, or the General Commissioners under the said Act, passed in the Second Year of the Reign of His present Majesty, shall direct, in order to retain fresh Waters in dry Seasons for the use of Cattle, the Top of such Draw Doors to be gauged to such Height as to retain the Water of *Maud Foster*'s Drain, not higher at ordinary Seasons than Two Feet below the medium Surface of the lowest Lands that drain thereby; and shall at the same Time scour out, cleanse, widen, deepen, and enlarge, or cause to be scoured out, cleansed, widened, deepened, and enlarged the said Drain called *Maud Foster*'s Drain, from the Sea Gowt to *Cowbridge*, so that the same shall not be more than Four Feet deeper than it now is, nor less than Thirty-six Feet wider at Bottom, with a Batter of not less than Two Feet on each Side to every Foot in Depth.

A Sea Sluice to be built.

III. And

New Cut from *Hobhole* Drain at *Freiſton* Common to *Luke's Corner.*

III. And be it further enacted, That the ſaid Special Commiſſioners ſhall, and they are authorized and empowered to make or cauſe to be made a new Cut or Drain, to communicate, at *Frieſton* Common, with the new Cut or Main Drain directed by the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty to be made from *Hobkole*, and to be continued from thence nearly in a right Line through and acroſs the ſaid Common, to, through, and acroſs certain incloſed Lands and Grounds in the Pariſhes of *Freiſton*, *Fiſhtoft*, *Boſton*, and *Skirbeck*, to or near a certain Place called *Luke's Corner*, there to communicate with the ſaid Drain called *Newdike Drain*; which ſaid Cut or Drain ſhall be at leaſt Thirty Feet wide at Bottom, with a Batter of not leſs than Two Feet on each Side to every Foot in Depth; and alſo ſhall ſcour out, cleanſe, widen, deepen, and enlarge, or cauſe to be ſcoured out, cleanſed, widened, deepened, and enlarged, to the Width of not leſs than Thirty Feet at Bottom, with a Batter of not leſs than Two Feet on each Side to every Foot in Depth, the ſaid Drain called *Newdike Drain* from the ſaid Place called *Luke's Corner*, to or near the ſaid Bridge called *Cowbridge*, for the Purpoſe of conveying the ſaid Downfal and Soakage Waters of the ſaid *Weſt* and *Wildmore Fens*, from the Junction of the Two Cuts or Drains made or intended to be made in the ſaid *Weſt Fen*, and on the South Side of *Frith Bank* Incloſures, by virtue of the ſame Act, at or near the ſaid Bridge called *Cowbridge*, by the ſaid *Newdike* Drain and new Cut reſpectively, into the ſaid *Hobhole* Drain, when and ſo often as the ſaid *Maud Foſter*'s Drain ſhall be incapable of diſcharging the ſame, by being over-ridden by the Flood Waters of the ſaid River *Witham*.

Newdike Drain to be ſcoured out &c.

Houſes and Gardens not to be injured, except ſuch as are mentioned, &c.

IV. Provided always, and be it further enacted, That nothing herein contained ſhall authorize or empower the ſaid Special Commiſſioners, or any Perſon or Perſons acting by or under their Authority, to take or uſe for the Purpoſe of this Act any Houſe or other Building which was erected or built at or before the paſſing of this Act, or any Land or Ground which was then ſet apart and uſed as and for a Garden, Orchard, Yard, Park, Paddock, planted Walk or Avenue to a Houſe, without the Conſent of the Owners and Occupiers thereof, and Perſons intereſted therein reſpectively, other than and except a Cottage or Tenement, and Buildings, belonging to the Dean and Chapter of *Weſtminſter*, in the Pariſh of *Boſton* aforeſaid, in the Occupation of *James Baxter*, or his Aſſigns; a Barn and other Buildings belonging to *Frances Buckworth* Widow, in *Fiſhtoft* aforeſaid, in the Occupation of *Chriſtopher Weſt*, or his Aſſigns; a Cottage or Tenement, and Buildings, belonging to *John Saul* in *Fiſhtoft* aforeſaid, in the Occupation of *Sarah Temple* Widow, or her Aſſigns; and Two Cottages or Tenements, and Buildings, belonging to *William Bonner* in Right of his Wife, in *Skirbeck* aforeſaid, in the Occupations of *Matthew Lea* and *Benjamin Bowſer*, or their Aſſigns, and all the Outhouſes, Buildings, Barns, Stables, Sheds, Yards, Gardens, Orchards, Outlets, and Pieces of Ground whatſoever, to the ſaid ſeveral Cottages or Tenements, Buildings, Hereditaments, and Premiſes belonging, or ſo much or ſuch Part thereof as the ſaid Special Commiſſioners ſhall think requiſite or neceſſary, and which are reſpectively meant and intended to be taken and uſed for the Purpoſes of this Act, and which it ſhall be lawful for the ſaid Special Commiſſioners to take, paſs through, and make uſe of for the Purpoſes of the ſaid Drainage, the ſaid Special Commiſſioners making Satisfaction to the ſeveral Owners and Perſons intereſted in ſuch Hereditaments and Premiſes reſpectively for the ſame, and for the Damages they ſhall reſpectively ſuſtain thereby, the ſame to be aſcertained in like Manner as by the ſaid recited Act of the Forty-firſt Year of

the Reign of His present Majesty is directed with respect to other Hereditaments to be taken or used by the said Special Commissioners.

For preserving the Drainage of the High Lands.

V. Provided always, and be it further enacted, That for preserving the Communication of the said Stone Bridge Drain with *Maud Foster*'s Drain (the ancient Outfal of the High Land Waters to the Sea) which will, by Means of the Works of Drainage hereby directed to be made and executed as aforesaid, be interrupted, the said Special Commissioners shall and they are hereby authorized, empowered, and required, to lay or cause to be laid such proper Aqueducts, Culverts, Trunks, Tunnels, or Pipes, as shall be necessary or sufficient to convey the said Waters from the said High Lands to the Sea, in as complete and effectual Manner as they would have been conveyed thereto in case this Act had not been made.

Sluice to be built for opening and preserving a Communication between the Drains on the West Side of *Cowbridge*, and *Newdike* Drain.

VI. And be it further enacted, That the said Special Commissioners shall, and they are hereby authorized and empowered, to cause a new Sluice, Lock, or Stop Gate to be made and erected at or near the Place where *Cowbridge* now stands, of sufficient Dimensions and Capacity, and the Sill thereof to be laid sufficiently low for occasionally opening and preserving a Communication between the said Drains on the West Side of *Cowbridge* and the said *Newdike* Drain, for the Conveyance of the said Downfal and Soakage Waters of the said *West* and *Wildmore Fens* to *Hobhole*, as herein-after mentioned.

Lock or pointing Doors to be put down at the Junction of the said Drains with *Maud Foster*'s Drain.

VII. And be it further enacted, That the said Special Commissioners shall and they are hereby authorized, empowered, and required, to make, erect, or put down, or cause to be made, erected, and put down, a Lock or Pair of pointing Doors towards the said *Maud Foster*'s Drain at the Junction thereof with the last mentioned Two Drains at or near *Cowbridge*, to shut when and as often as the High Land Waters from the said *Stonebridge* Drain shall over-ride the Downfal and Soakage Waters of the said *West* and *Wildmore Fens*.

No Communication to be opened by the said Lock or Pointing Doors until, &c.

VIII. Provided always, and be it further enacted, That no Communication shall at any Time hereafter be opened by the said Sluice, Lock, or Stop Gate between the said Two Drains on the West Side of *Cowbridge* and *Newdike* Drain, for the Conveyance of the said Downfal and Soakage Waters to *Hobhole*, until the said Waters are accumulated or raised in the said Two Drains One Foot above the Top of the Draw Doors of the said Sea Sluice herein-before directed to be built, when shut down, so that those Waters will thereby be retained One Foot below the medium Surface of the lowest Lands which drain thereby; nor shall the said Sluice, Lock, or Stop Gate be longer kept open for the Discharge of the said Waters into *Hobhole* Drain, than until the Surface of such Waters shall be reduced within Two Inches of the Level of the Top of the said Draw Doors; but the said Sluice, Lock, or Stop Gate shall be then shut, so as to confine the Passage of those Waters by *Maud Foster*'s Drain, provided the same can be thereby discharged (save and except in such Cases only as the said Special or General Commissioners shall find it necessary and expedient to let off the said Waters lower, for the Purpose of making, executing, or repairing, scouring out, or cleansing any Works of Drainage).

Special Commissioners to take Materials from the Commons,

IX. And be it further enacted, That it shall be lawful for the said Special Commissioners, and all Engineers, Surveyors, or other Persons acting or employed under or by virtue of the said recited Act of the Forty-first Year of

Open Marshes, and Wastes, without paying for the same.

of the Reign of His present Majesty, or this Act, to search for, dig, gather, and take away any Sand, Gravel, Clay, or other Materials, for making or repairing any Aqueducts, Culverts, Outlets, Sluices, Gowts, Cloughs, Engines, Bridges, Tunnels, or other Works of Drainage, in and out of any River or Brook, and out of any Commons, Open Marshes, or Waste Grounds in any Parish or Place in or near which any such Works shall or may be made or built, without paying any Thing for such Materials, such Special Commissioners or Persons as aforesaid levelling or causing to be levelled all Holes and Pits, or otherwise causing the same to be railed or fenced off, where or from whence any such Materials shall be digged, gathered, or taken away, in such Manner as that the same shall not be dangerous to any Travellers or Cattle whatsoever, and paying for the Damages done by landing, and for going over or through any Lands, Grounds, or private Lanes or Roads, for or with such Materials, to be ascertained as herein-after mentioned; and also that it shall be lawful for such Special Commissioners, and such Person or Persons as aforesaid, to search for, dig, gather, and take away such Materials, in and out of the Lands or Grounds of any Person or Persons (not being a Garden, Orchard, Park, Yard, Paddock, or planted Walk or Walks, or Avenue to a House, or any Piece of Ground inclosed, planted, and set apart as a Nursery for Trees) paying such Rates for such Materials, and for the Damages done to the Owners or Occupiers of such Lands and Grounds, where and from whence the same shall be digged, gathered, and taken away, or over which the same, or any other Materials for the Purposes aforesaid, shall be carried, as the said Special Commissioners shall adjudge reasonable; and in case of any Difference concerning the same, such Rates and Damages shall be assessed and settled in such and the same Manner, and by the same Ways and Means as are provided by the said recited Act of the Forty-first Year of the Reign of His present Majesty, for making Satisfaction for Damages done to Lands, Tenements, and Hereditaments, cut, dug, pulled down, or otherwise made use of for the Purposes thereof.

And from private Grounds, making Satisfaction &c.

Extending the Time allowed to Proprietors of Lands in certain Parishes to have their Lands comprised within the Provisions of the Act of 41 Geo. 3.

X. And be it further enacted, That the Time allowed by the said recited Act of the Forty-first Year of the Reign of His present Majesty, for the Application of the Owners or Proprietors of Low Lands and Grounds in any One or more of the Parishes of *Friskney*, *Wainfleet Saint Mary's*, and *Wainfleet All Saints*, in the said County of *Lincoln*, lying contiguous or adjoining to the said *East Fen*, and not having Right of Common thereon, or any One or more of the Owners or Proprietors of Low Lands and Grounds on the West Side of *Steeping* River, in any of the Parishes lying contiguous to the said *East Fen*, to the said General Commissioners, to have their Low Lands and Grounds comprised within the Provisions of the same recited Act, or any of them, and to take the Benefit thereof, shall be extended and enlarged for the Term of Three Years next after the passing of this Act, subject to the Provisions, Regulations, and Restrictions, mentioned in the said recited Act, any Thing therein contained to the contrary notwithstanding.

Provisions of the Act of 41 Geo. 3. to extend to this Act.

XI. And be it further enacted, That all and every the Powers, Authorities, Provisoes, Conditions, Restrictions, Penalties, Forfeitures, Clauses, Matters, and Things whatsoever, contained in the said recited Act of the Forty first Year of the Reign of His present Majesty, except such only as are hereby repealed, varied, and altered, shall be and the same are hereby declared to be in full Force and Effect, so far as the same are applicable, in the Execution of and for the Purposes of this Act, and shall and may be put into Execution for the making, completing, and maintaining all and

every

every the Works to be done and performed by virtue or under the Authority of this Act, or otherwiſe in carrying this Act into Execution, in as full and ample Manner, and as effectually to all Intents and Purpoſes, as if the ſaid Powers, Authorities, Proviſoes, Penalties, Forfeitures, Reſtrictions, Clauſes, Matters, and Things were repeated and re-enacted in and by this Act.

Works of Drainage to be executed under the Controul of the General Commiſſioners, and afterwards veſted in them.

XII. Provided always, and it is hereby declared and enacted, That the ſeveral Works herein-before directed to be executed by the ſaid Special Commiſſioners, ſhall be made, done, and executed under the Direction and Controul, and to the Satisfaction of the ſaid General Commiſſioners acting under the ſaid Act, paſſed in the Second Year of the Reign of His preſent Majeſty, and ſhall from and after the Completion thereof be veſted in, and for ever afterwards remain, continue, and be ſubject and liable to the Power, Juriſdiction, and ſole Controul of the ſaid General Commiſſioners, or any Five or more of them, in ſuch and the like Manner as if the ſame had been made, done, and executed under the Authority of the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty.

Expences to be paid out of the Fund provided by the Act of 41 Geo. 3.

XIII. And be it further enacted, That the Coſts, Charges, and Expences of obtaining and paſſing this Act, and of carrying the ſame into Execution, and of making, executing, and completing the ſeveral Works of Drainage by this Act directed to be done, ſhall be paid and defrayed by and out of the General Fund provided by the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, in ſuch and the like Manner, to all Intents and Purpoſes, as if the ſame had been made, done, and executed under the Authority of that Act.

This Act not to prejudice or obſtruct the Powers of the Commiſſioners in the *Witham* Act.

XIV. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to prejudice, obſtruct, prevent, or defeat any of the Works made or to be made in purſuance of the ſaid Act, paſſed in the Second Year of the Reign of His preſent Majeſty, or to empower the Special Commiſſioners acting under or by virtue of the ſaid recited Act, paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, and this Act, or any of the Proprietors intereſted in the ſaid Drainage, to invalidate, leſſen, alter, or take away any of the Rights, Powers, and Authorities, which by the ſaid Act, paſſed in the Second Year of the Reign of His preſent Majeſty, were veſted in all or any of the Commiſſioners acting under the ſame Act (except ſuch Rights, Powers, and Authorities as are altered or taken away by this Act); but that the ſame ſhall be and continue as fully to all Intents and Purpoſes (except as aforeſaid) as if this Act had never been made, any Thing herein contained to the contrary thereof in anywiſe notwithſtanding.

Publick Act.

XV. And be it further enacted, That this Act ſhall be deemed and taken to be a publick Act, and all Judges, Juſtices, and other Perſons, are hereby required to take Notice thereof as ſuch, without the ſame being ſpecially pleaded.

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