



ANNO QUINQUAGESIMO SECUNDO

# GEORGI III. REGIS.

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## Cap. 174.

An Act for amending and rendering more effectual an Act of the Thirty-third Year of the Reign of His present Majesty, for embanking and draining certain Salt Marshes in the Parishes of *Spalding, Moulton, Whaplode, Holbech, and Gedney*, in the County of *Lincoln*; and also for repealing so much of an Act of the Thirty-fourth Year of His present Majesty, as affects the Marshes and Sands on the Outside of the Sea-Bank, lately made by virtue of the first-mentioned Act. [20th June 1812.]

**W**HEREAS an Act was passed in the Thirty-third Year of the Reign of His present Majesty, intituled *An Act for embanking and draining certain Salt Marshes and Low Lands within the several Parishes of Spalding, Moulton, Whaplode, Holbech, and Gedney, in the County of Lincoln, and for preventing the same Marshes and Lands from being overflowed with the Sea; and for altering an Act passed in the Thirty-first Year of the Reign of His present Majesty, intituled 'An Act for dividing and inclosing the Commons, Marshes, Drovers, Waste Lands and Grounds, in the Parish of Gedney and Hamlet thereof, called Gedney Fen, in the County of Lincoln.'* And whereas the Commissioners appointed to carry the said Embankment Act into Execution, have raised

South Hol-land Em-bankment, 33 G. 3.  
Gedney In-closure, 31 G. 3.

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Money by Sale of Parts of the Commonable Salt Marshes in *Gedney*, in the said Act mentioned, and by Mortgage of Part of the Commonable Salt Marshes in *Moulton*, in that Act also mentioned, according to the Powers and Directions therein contained, for the Purpose of defraying such proportionate Part of the Expences to be incurred in the Execution of the said Act as should be assessed by the same Commissioners on the said Commonable Salt Marshes in *Gedney* and *Moulton* respectively, and the Commissioners of the said Act of the Thirty-first Year aforesaid afterwards divided and allotted the Remainder of the said Commonable Salt Marshes in *Gedney* aforesaid, and the Persons interested in the said Commonable Salt Marshes in *Moulton* aforesaid soon afterwards paid off the Monies so raised on Mortgage by the said Embankment Commissioners, and the said Commonable Salt Marshes in *Moulton* were afterwards divided and allotted by virtue of an Act passed for that Purpose in the Thirty-third Year aforesaid, intituled *An Act for dividing and inclosing the Commonable Salt Marshes, Drovers, Commons, and Waste Lands, within the Parish of Moulton, in the County of Lincoln*: And whereas the said Embankment Commissioners afterwards proceeded to carry the said Embankment Act of the Thirty-third Year aforesaid into Execution, and formed and drew up their Award, wherein it is expressed, that they had assessed, and did thereby assess the proportionate Parts of the Expences of executing the same Act on the said Commonable Salt Marshes of *Moulton* and *Gedney* respectively, which considerably exceeded the Monies raised by Sale and Mortgage respectively as aforesaid, and such Excess remains for the most Part unpaid: And inasmuch as it hath been doubted, whether the said Powers of Sale and Mortgage contained in the said Embankment Act of the Thirty-third Year aforesaid, can now be further exercised, by reason of the said Embankment Commissioners having executed their Award, and otherwise, and as many of the Persons who in Justice and Equity ought to pay and make good such Excess refuse to do: 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 the Powers of Sale and Mortgage which by the said Embankment Act of the Thirty-third Year aforesaid were given to or vested in the said Embankment Commissioners for raising the proportionate Shares of the Expences of carrying the same Act into Execution, in respect of the said Commonable Salt Marshes of *Gedney* and *Moulton* respectively, shall or lawfully may at any Time or Times hereafter be exercised by the Committee-men for the Time being, acting under the Directions of the said Embankment Act, or of this Act, over or upon any Allotment or Allotments, or any Part or Parts of any Allotment or Allotments made by virtue of the said Inclosure Acts of the Thirty-first and Thirty-third Years aforesaid of the said Salt Marshes in *Gedney* and *Moulton* heretofore commonable, until such proportionate Shares of the Expences of carrying the said Embankment Act into Execution, which in the said Award are expressed to have been and to be thereby assessed as aforesaid, in respect of the said Commonable Salt Marshes of *Gedney* and *Moulton* respectively shall be fully paid,

Moulton Inclosure,  
33 G. 3.

Former Powers of Sale and Mortgage may be exercised by Committee-men under Embankment Act, until Arrears discharged.



paid, satisfied, and discharged, together with the Costs and Charges attending every Sale and Mortgage to be made by the said Committee-men respectively, and that nothing in the said Embankment Act contained shall confine or be construed to confine the Exercise of the Power of Mortgage with respect to the said Salt Marshes of *Moulton* heretofore commonable to the Portion thereof directed to be staked out by the said Embankment Commissioners.

II. Provided always, and it is hereby further enacted, That it shall not be lawful for the said Committee-men to exercise the said Powers of Sale or Mortgage respectively, or either of them, over or upon any Allotment or Allotments of the said late Commonable Salt Marshes of *Gedney* and *Moulton* respectively, whose Owner or Owners have or hath already paid to the said Embankment Commissioners, or shall, on or before the First Day of *October* next, after the passing of this Act, pay to the said Committee-men such Sum or Sums of Money as according to the Calculation made or to be made by the said Embankment Commissioners, or the said Committee-men, is or are or shall be estimated to be the Proportion or Proportions, payable in respect of such Allotment or Allotments of and in the Excess of the said Assessments respectively beyond the Sums so raised by Sale or Mortgage respectively as aforesaid: Provided nevertheless, that if any Person or Persons shall so pay any Sum or Sums of Money which, or any Part of which, ought to be repaid to him, her, or them, by some One or more of the Owners and Proprietors of Messuages, Cottages, or Tofts in *Gedney* and *Moulton* respectively, or by some One or more Person or Persons deriving Title under any of the former Owners or Proprietors of Messuages, Cottages, or Tofts in *Gedney* and *Moulton* respectively, it shall be lawful for any such Person or Persons, so paying as aforesaid, to proceed, if necessary, against the Person or Persons who ought to repay the same by Action of Debt, in any of His Majesty's Courts of Record at *Westminster*, in which Action it shall be sufficient for the Plaintiff or Plaintiffs to declare, that the Defendant or Defendants, at the Time of the Commencement thereof, was or were indebted to such Plaintiff or Plaintiffs in a Sum of Money to be specified, payable on Demand, in respect of a certain Assessment, made pursuant to the said Embankment Act by the Commissioners appointed to carry the same into Execution, and in which Action no Essoign, Protection, or Wager of Law, or more than one Imparllance shall be allowed.

III. Provided also, and it is hereby further enacted, That the Receipt or Receipts of the said Committee-men for the Time being, or of their Collector or Collectors, for any Monies which shall or may be so raised by Sale or Mortgage as aforesaid, shall effectually discharge the Person or Persons paying the same from being obliged or concerned to see to the Application thereof, or from being answerable for the Non-application or Mis-application thereof.

IV. And be it further enacted, That the said Committee-men for the Time being shall pay and apply the Money to be received by them as aforesaid, in satisfying and discharging all the Expences remaining unpaid

Allotments in respect of which Ar-rears have been or shall be paid not to be sold or mortgaged.

And Persons so paying to recover over.

Receipts of Committee-men or their Collectors sufficient Discharges.

How Arrears when received are to be applied.



unpaid relative to the said Embankment Act, and the carrying the same into Execution, and shall pay and apply the Surplus thereof, if any, in such and the same Manner as the Monies raised or to be raised by any Rate or Assessment made or to be made by the said Committeemen for the Time being may, by virtue of that Act or this Act, be paid or applied.

V. And whereas the said Embankment Commissioners were by the said Embankment Act empowered and required to alter, remove, shorten, or straighten such of the ancient Divisions or Fences in the said Salt Marshes, or to cause new or other Divisions or Fences to be made in such Places and Instances as to them should seem most convenient, so as to preserve the Frontage of the Parties interested in Manner hereinafter provided for; and they the same Commissioners were also required to make such Parts of the Divisions before-mentioned as would abut upon the New Sea Bank therein directed to be made, in such Manner as to preserve straight Lines of One hundred Yards in Length, and as nearly parallel to each other as might be upon the Marshes within the said New Sea Bank; and it was by the same Act enacted, that all Claims to future Accretion of Salt Marsh should, from and after the Execution of the Award of the said Embankment Commissioners, be regulated by a Continuation of the said straight Lines across the said New Sea Bank and into the Salt Marshes to be from Time to Time for ever thereafter acquired from the Sea, so that no Person or Persons should be entitled to or have Right of Common upon any further Part of the said new acquired Salt Marshes, than should have a Frontage on such of the private or commonable Salt Marshes within the said New Sea Bank as belonged to or as were enjoyed by the same Person or Persons so claiming to be entitled to such Accretion of Salt Marsh as aforesaid: And whereas the said Embankment Commissioners were, by the said Embankment Act, directed to insert in their Award, a Description of the respective Messuages, Tenements, Lands, and Grounds, entitled to Right of Common, on the said Commonable Lands in the said Parishes of *Moulton* and *Gedney*, and also to cause Five Parts of their Award to be engrossed, with a Plan annexed to each and every Part thereof, describing the Boundaries of the Commonable Salt Marshes in *Gedney* and *Moulton* aforesaid, and of each Proprietor's or Owner's Part and Share in the said private Salt Marshes, after the Divisions should be shortened as before directed; and the same Commissioners were to sign and seal the said Five Parts of their Award, one Part of which was to be kept in the Parish Chest of *Spalding*, one other Part in the Parish Chest of *Moulton*, another Part in the Parish Chest of *Holbeck*, another Part in the Parish Chest of *Whaplode*, and the remaining Part in the Parish Chest of *Gedney*: And whereas the said Embankment Commissioners found it impossible to insert in their Award a Description of the respective Messuages, Tenements, Lands, and Grounds, entitled to Right of Common in the said Commonable Salt Marshes in the said Parishes of *Moulton* and *Gedney* respectively, and have not in the Plan annexed to the said Award described the Boundaries of the same Commonable Salt Marshes and of the Proprietor's Shares in the said private Salt Marshes; and the said Embankment Commissioners, instead of signing and sealing Five Parts of



their said Award as directed by the said Embankment Act, which would have been attended with a great and unnecessary Expence; have only executed one Part thereof, and have deposited the same in the Parish Chest of *Holbeck* aforesaid: And whereas the said Embankment Commissioners may also have omitted to do, or may have imperfectly or irregularly done other Acts required of them by the said Embankment Act; be it therefore enacted, That the Omissions and Irregularities of the said Embankment Commissioners, and Acts imperfectly done by them in the Execution of the said Embankment Act, or in their Award, or in their Plan thereto annexed, shall not be deemed to affect the Validity of or otherwise vitiate their Proceedings under the same Act; and that the Banks, Drains, Creeks, Sewers, Sluices, Tunnels, Bridges, and other Works made and done by the said Embankment Commissioners, under the Authority of the said Embankment Act, shall be deemed to have been perfected and completed; and that the Award so executed by them shall be deemed and taken to have been and to be the Award of the said Embankment Commissioners, as if the Directions of the said Embankment Act had been in every respect duly observed by the same Commissioners, and as if the said Award and the Plan thereto annexed had contained all the Matters directed by the said Embankment Act to be inserted therein, and as if the same Commissioners had signed and sealed Five Parts of the said Award with a Plan annexed to each, and had disposed of the same, as in the said Embankment Act is directed, and that the same Award shall be deemed and taken to be valid and effectual as to all the Matters therein contained; and that no Acts, Matters, or Things heretofore made or done by the Trustees, or by the Committee-men, or by the Superintendant for the Time being, acting under the said Embankment Act, shall be impeached or rendered invalid by reason of any such Omissions, Imperfections, or Irregularities of the said Embankment Commissioners, or for any Want of Form in the Appointments of the said Committee-men or Superintendant, or any of them, or for any other Want of Form whatsoever.

Award of Embankment Commissioners confirmed.

VI. Provided always, and be it further enacted, That nothing herein contained shall be construed to injure or diminish the Right of Frontage of the Reverend *James Suttell Wood*, or of any other Person or Persons under the said Embankment Act, or to alter or vary the Directions respecting the Right of Frontage in the same Act contained; but that the Right to the present, and all future Accretions of Salt Marsh beyond the New Sea Bank, made under the Authority of the said Embankment Act, shall be determined according to the Directions of that Act, so as to give to the said *James Suttell Wood*, and the several other Persons interested in the Frontages, the same Right in and to the present and all future Accretions of Salt Marsh beyond the said New Sea Bank, as by the said Embankment Act was given to or provided for, or intended to be given to or provided for him, her, or them respectively, in such Manner as he, she, or they would have been entitled, in case the said Embankment Commissioners had pursued the Directions of the said Embankment Act for making the Boundaries and Divisions, so as to preserve straight Lines of One hundred Yards in Length, and as nearly parallel to each other as might be, upon the Marshes within the said New Bank,

Not to affect Rights of Frontage.

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and had in their Award and the Plan thereto stated their Execution of such Direction.

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Issue.

VII. Provided always and be it further enacted, That in case and when and so often as any Dispute shall at any Time or Times hereafter arise between any Persons interested, or claiming to be interested, in any such Accretion of Salt Marsh as aforesaid, the Person or Persons so interested, or claiming to be so interested as aforesaid, is or are hereby authorized to give Notice in Writing to, or to leave the same at the Dwelling-house or usual Place of Abode of the Person, or each of the Persons objecting to or resisting his, her, or their Claim or Claims; and if the Person or Persons so objecting to or resisting such Claim or Claims as aforesaid shall not, within the Space of One Calendar Month next after the giving or leaving such Notice as aforesaid, acquiesce in or admit such Claim or Claims, then it shall be lawful for the Person or Persons so interested, or claiming to be so interested as aforesaid, to proceed to a Trial at Law, of the Matter or Matters in Difference, at the first or second Assizes to be holden for the said County of *Lincoln* next after the Expiration of One Calendar Month from the Time of giving or leaving such Notice as aforesaid; and for that Purpose the Person or Persons interested, or claiming to be interested as aforesaid, shall cause an Action to be brought in any of His Majesty's Courts of Record at *Westminster*, upon a feigned Issue against the Person or Persons objecting to or resisting his, her, or their Claim or Claims; and such Person or Persons resisting such Claim or Claims is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept one or more feigned Issue or Issues, whereby such 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 the said Action or Actions shall be commenced, in case the Parties shall differ about the same; and if at the Trial of any such Issue or Issues it shall appear that the Person or Persons so claiming to be interested as aforesaid is or are entitled to any qualified or less Right or Rights, Interest or Interests, than was or were claimed by such Person or Persons, then it shall be lawful for the Jury by whom such Issue or Issues shall be tried to find and declare the same by their Verdict, which shall be indorsed on the Postea, in Addition to the Issue or Issues joined; but nevertheless the Costs of such Action shall abide and be determined by the Issue or Issues joined, as if no such special Verdict had been made; and the Verdict or Verdicts or such special Finding and Indorsement (if any); which shall be given in such Action or Actions, shall be final, binding, and conclusive upon the Parties, and each and every of them, and upon all and every Person and Persons claiming respectively from, by, or under the said Parties, or any of them, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial or new Trials to be had therein, which it shall be lawful for the said Court to do; and also upon sufficient Cause shewn it shall be lawful for the said Court in Term, or for any One of the Judges of the said Court in Vacation, or for any One of His Majesty's Justices assigned to hold the Assizes in and for the said County



County of *Lincoln*, to put off the Trial of such Action or Actions as is usual in other Cases.

VIII. And whereas by an Act passed in the Thirty-fourth Year of Welland Act, the Reign of His present Majesty; intituled *An Act for improving the* 34 G. 3. *Outfall of the River Welland in the County of Lincoln, and for the better Draining of the Fen Lands, Low Grounds, and Marshes; discharging their Waters through the same into the Sea; and for altering and improving the Navigation of the said River Welland, by Means of a new Cut to commence below a certain Place called The Reservoir, and to be carried from thence through the enclosed Marshes, and open Salt Marshes, into Wyberton Roads, between the Port of Boston and a Place called The Scalp; and for disposing of the bare or White Sands adjoining to the said River; and for building a Bridge over the said Cut; Reciting, that by the making of the aforelaid New River or Cut, and turning the Waters out of their present Channel or Course into, through, and along the said New River or Cut, a large Tract of bare shifting Sands called *The White Sands*, lying between the Salt Marshes on the North Shore and the Salt Marshes on the South Shore, and also the Channel from the great Dam intended to be made across the same at or near the upper End thereof, extending downwards to the Junction of the said Channel with the Channel of the *Witham* Waters, would be raised and brought into a State of Pasturage, and thereafter become capable of Cultivation: And also reciting, that the Limits and Boundaries between the Parishes on the North Shore and the Parishes on the South Shore had been immemorially determined by the Low Water-mark of the Channel of the said *Welland* Waters in their Course through the bare shifting Sands, and that the Salt Marshes lying on the North Shore between the present Sea Bank and the said bare shifting Sands were enjoyed by certain Owners of embanked and open Marshes in respect of their Frontages, or certain Persons having Right of Common upon the said Salt Marshes, or other Rights and Interests therein: And also reciting, that by the herein-before recited Embankment Act of the Thirty-third Year of the Reign of His present Majesty it was enacted, that all Claims to future Accretion of Salt Marsh on the said South Shore should for ever after the Execution of the Award of the Commissioners therein appointed be regulated by Lines therein directed to be set out by the said Commissioners, and that it would be expedient not only that the Limits and Boundaries between the Parishes on the North Shore and the Parishes on the South Shore, but also between the said bare shifting Sands and the Salt Marshes on the said Shores respectively, should be exactly ascertained and set out: It was by the said Act of the Thirty-fourth Year of the Reign of His present Majesty, now in Recital, enacted, that for better ascertaining the Bounds and Limits of the said bare shifting Sands and the Low Water-mark of the said Channel, and for keeping the exact Quantity of Acres and Boundary-line in Memory at all Times to come, the said Commissioners at their First, Second, or Third Meeting, to be held by public Advertisement, should, and they were thereby directed and required to cause Notice to be affixed upon the Doors of the several Parish Churches next adjoining, on each Side of the said bare shifting Sands and Channel, on Three successive *Sundays*, of their Intention.*



tion and Design of setting out, planning, abutting, and surveying the said bare shifting Sands, and the Low Water-mark of the said Channel, and of the Time and Place of Meeting for those Purposes, that the Owner or Owners, Tenant or Tenants, of any Lands or Marshes next adjoining to the said bare shifting Sands and Channel might attend the said Commissioners at such Time and Place so to be appointed as aforesaid; and in case the said Owner or Owners, Tenant or Tenants, so attending as aforesaid, should not agree with the said Commissioners as to bounding, abutting, and surveying of the said bare shifting Sands and setting out the Low Water-mark of the said Channel, that then and in such case the said Commissioners should, and they were thereby required to apply to the Sheriff of the County of *Lincoln*, to cause a Jury to be summoned, returned, impannelled, and sworn, and a View to be taken; and also to summon and examine upon Oath all such Witnesses as might be necessary to ascertain the Matters in question; and that the Sheriff or Coroner, or his Deputy or Agent, Jurors or Witnesses, making Default in the Premises, should be subject and liable to the same Penalties as by the same Act of the Thirty-fourth Year of the Reign of His present Majesty were directed for any Default, upon a Jury being impannelled to ascertain the Value of any Land to be purchased for the Purposes of the said Act, and that the said Jury so sworn as aforesaid should ascertain and set out the Boundaries of the said shifting Sands and the Low Water-mark of the said Channel; and that the said Sheriff or Coroner should give Judgment according to the Verdict of such Jury; which said Verdict and Judgment thereupon pronounced by the said Sheriff or Coroner should be binding and conclusive upon all Parties interested; and that the Costs and Charges incident to and attending the ascertaining and setting out the said Boundaries and Low Water-mark should be settled by the said Sheriff or Coroner, and paid by the said Commissioners out of the Fund to arise from the Taxes, Tolls, and Pontage therein mentioned: And it was by the said Act provided and further enacted, that in all Cases where the Owner or Owners should not attend at the Time and Place appointed by the said Commissioners for setting out, surveying, and planning the said bare shifting Sands and Low Water-mark of the said Channel, that then the said Commissioners should, according to the best Evidence they could obtain, cause the Boundary of the said bare shifting Sands and Low Water-mark of the said Channel to be set out and abuttled with Stones and other proper Marks or Abuttals; and that after such bare shifting Sands and Low Water-mark of the said Channel should be set out, bounded, and abuttled, as aforesaid, the said Commissioners should cause the same to be measured and planned, and Two fair Copies of such Plan, distinguishing thereon the several boundary Stones, Marks, or Abuttals, so to be set up as aforesaid, should be signed and sealed by the said Commissioners, and that one Part thereof should be delivered to the Clerk of the Peace for the said Parts of *Holland*, to be kept amongst the Records of the Sessions of the Peace for the said Parts of *Holland*, and the other Parts thereof should be kept with the Books and Proceedings of the said Commissioners, for the ready Inspection of all Persons who might be interested therein; and that a Copy thereof, or of any Part thereof, signed by the said Clerk of the Peace, should be admitted as Evidence in any Court of Justice



whatsoever: And it was in the said Act further enacted, that after the said bare shifting Sands and Low Water-mark of the said Channel should be set out, bounded, and abutted in Manner aforesaid, the same and every of them should vest, and they were thereby vested in the Trustees therein appointed, freed and discharged from all Right or Claim which could or might be claimed therein by any Person or Persons whomsoever, except as thereafter mentioned, to hold the same unto and to the Use of the said Trustees, upon Trust, to let or set the said bare shifting Sands, or any Part or Parts thereof, from Time to Time, at the best and highest Rents that could reasonably be obtained, until the said bare shifting Sands should become fit to be embanked as thereafter provided for: And it was by the same Act further enacted, that when any Part or Parts of the said bare shifting Sands should become fit to be embanked, it should be lawful for the said Trustees to make, or cause to be made, good and substantial Banks for defending the same from the Sea, to extend from the Sea Bank that should have been then erected on the North Shore, to the Sea Bank that should have been erected on the South Shore, crossing the said Salt Marshes, so as to include a Part thereof; and that to defray the Expence of the said Embankment it should be lawful for the said Trustees to borrow Money on Mortgage of the said bare shifting Sands, or any Part or Parts thereof, and also on Mortgage of such Parts of the said Salt Marshes as would be necessary to be inclosed within the said Embankment; which said Money so borrowed should, together with the Fund then in Hand from the said Rents, be applied by the said Trustees in embanking such Parts and Divisions of the said bare shifting Sands, and of the Salt Marshes, at such Time or Times as the said Trustees should think proper; and that upon every such Embankment taking place it should be lawful for the Trustees to sell the bare shifting Sands so embanked, or any Part or Parts thereof, subject nevertheless to the Payment of such Annual Tax, not exceeding One Shilling *per* Acre, as the said Trustees should think proper to impose for draining the same into the said New River or Cut, or supplying fresh Water therefrom, and apply the Money arising from such Sale or Sales, in the first Place, in paying the Expences of the said Embankment, and all Expences that should have arisen in the setting out, planning, abutting, and surveying the said bare shifting Sands and Low Water-mark of the said Channel, and in the above mentioned Adjudication respecting the same; and, in the next place, in paying off the said Mortgage, with all Interest due thereon, and all Expences attending the borrowing of such Money, and making such Sale or Sales; and lastly, to apply One Moiety or Half Part of the nett Remainder of the Money arising from such Sale or Sales to and for the same Uses, Intents, and Purposes as the Taxes, Tolls, and Pontage thereby authorized to be laid, and Money to be borrowed thereon, were to be paid and applied by virtue of the said Act now in recital, and to pay the other Moiety or Half Part of the said nett Remainder of the Money arising from such Sale or Sales to the Owner or Owners of or Person or Persons interested in the said Frontage Lands or Salt Marshes abutting upon the said bare shifting Sands, in such Shares and Proportions as the several Rights and Interests in the said Frontage Lands or Salt Marshes abutting as aforesaid should bear to each other; (that is to say), on the South Side of the said

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Channel,



Channel, according to the said parallel Lines so to be set out by the Commissioners appointed by the said in part recited Embankment Act; and, on the North Side of the said Channel, according to the best Evidence that could be obtained by the said Trustees, or according to the Adjudication thereinbefore provided for, with respect to the setting out, planning, abuttaling of, and surveying the said bare shifting Sands and Low Water-mark of the said Channel: And whereas the Commissioners appointed to carry into Effect the said recited Act of the Thirty-fourth Year of His present Majesty's Reign, not having been able to borrow Money under the Powers therein contained, to defray the Expences to be incurred in the Execution of the same, have only been able to make a Dam, and a small Part of the said intended Cut, by which the Water of the said River *Welland* was to be turned or diverted: And whereas Part of the Frontage Lands, Salt Marshes, and Sands adjoining the said New Sea Bank, in the said Parishes of *Spalding* and *Moulton*, became, in consequence of the Works of the said Commissioners of the said Act of the Thirty-fourth Year of the Reign of His present Majesty, fit for Cultivation, and have been embanked: But inasmuch as the said intended Cut cannot for want of Money be perfected, and therefore no Advantage can arise to the several Persons interested under the said Embankment Act, in the unembanked Frontage Lands, Salt Marshes, and Sands affected by the said Act of the Thirty-fourth Year of the Reign of His present Majesty, from the Provisions of the same Act, it is reasonable and expedient that such Persons should remain no longer subject to those Provisions; be it therefore enacted, That so much and such Parts of the said recited Act of the Thirty-fourth Year of the Reign of His present Majesty, as relate to or concern the unembanked Frontage Lands, Salt Marshes, or Sands adjoining the said New Sea Bank, which has been made and formed under the Direction of the said Embankment Act of the Thirty-third Year of the Reign of His present Majesty, shall be and the same is and are hereby repealed.

So much of Welland Act repealed as relates to South Holland Frontages.

Power for the Gedney Delegates to let the Lodge and open Common Salt Marshes, &c.

IX. And, for the Convenience of the Persons interested, be it further enacted, That it shall and may be lawful for the Delegates for the Time being, acting under the Directions of the said Embankment Act or this Act, for the Commoners or Persons interested in the said late Commonable Salt Marshes of *Gedney*, or in the Allotments thereof; and they are hereby authorized and empowered to let by Public Auction, and to demise for any Term or Number of Years not exceeding Five Years from the Time of such letting, either for Grass or Tillage, under such Restrictions, Regulations, Covenants, and Agreements as they may think proper, a certain Parcel of Land, lying in the said late Commonable Salt Marsh of *Gedney* aforesaid, called *The Lodge*, containing Two Acres or thereabouts; and also in like Manner, and for the like Term, to let and demise the Grass or Herbage of the open Commonable Salt Marshes of *Gedney* lying on the North Side of the said New Sea Bank, or any Part or Parts thereof, for feeding, freed and discharged from all Right of Common thereon, but under such Restrictions, Regulations, Covenants, and Agreements, as they may think necessary; and the same Delegates for the Time being are hereby required from Time to Time to apply and dispose of the Rents, Issues,



Issues, and Profits to arise by letting the said Lands respectively in Manner following; *videlicet*, First, in defraying all Expences that may be incurred in letting the said Lands, and then in defraying all Charges and Expences of making, repairing, and supporting such Fences, Tunnels, Sluices, Bridges, Inlets, Outlets, and other Works in, upon, and over the said open Common Salt Marshes, as they the said Delegates for the Time being shall from Time to Time judge proper and necessary for the Occupation or Improvement of the same; and to pay and divide the Residue and Surplus, if any, of the said Rents, Issues, and Profits; in Manner following; *videlicet*, One equal Fifth Part thereof to and amongst the Lords of the several Manors in *Gedney* aforesaid, in Proportion to the Number of the antient Commonable Messuages and Tofts within each of the said Manors, and the remaining Four Fifth Parts thereof to and amongst the Owners and Proprietors of the said antient Commonable Messuages and Tofts in the Parish of *Gedney* and Hamlet of *Gedney Hill*, or to and amongst such other Persons as would, on any Division and Inclosure of the said open Common Salt Marshes, be entitled to Allotments of Land, in respect of the said Messuages and Tofts, or in respect of any Sale or Disposition heretofore made, or hereafter to be made, of the Right of Common belonging thereto; such antient Commonable Messuages and Tofts to be ascertained and settled according to the Award made by the said Commissioners under the said Act of the Thirty-first Year aforesaid, for the Inclosure of the Common Marshes, Drovers, Waste Lands, and Grounds in *Gedney* aforesaid.

X. Provided always, That if at any Time or Times hereafter the Persons interested shall be minded and desirous of determining the Powers and Authorities hereby given, for letting or demising the Parcel of Land called *The Lodge*, and the Grass and Herbage of the said open Common Salt Marshes of *Gedney*, or any Part thereof, it shall and may be lawful to and for the Majority of the Persons authorized by virtue of the said Embankment Act to elect such Delegates as aforesaid, at any Annual Meeting to be holden on *Easter Monday* pursuant to the Directions of the same Act, (One Month's Notice being given of the Matter intended to be discussed at such Meeting, by Advertisement in some Newspaper circulating in the County of *Lincoln*, and by affixing the same on the Church Door of *Gedney* aforesaid), by an Order or Resolution under their Hands, to direct and determine that the said Lands, or any Part or Parts thereof, shall not in future be let or demised by the said Delegates for the Time being under the Powers and Authorities herein-before given; and after the Expiration or Determination of the then subsisting Contracts or Agreements the Lands, not in future to be let or demised, shall be occupied and enjoyed by such Persons as may then be entitled thereto, in such Manner as if the same had never been let or demised.

Powers given to the *Gedney* Delegates may be determined.

XI. And whereas great Damage was done to the said New Sea Bank by an exceedingly high Tide, accompanied by a violent Tempest, which happened in *November* One thousand eight hundred and ten; and at the Time of such Injury the said Embankment Commissioners had not executed their Award, and they conceived that they were not authorized



rized under the said Embankment Act to repair the Damage so occasioned, and no other Person was empowered by such Act to repair the same, until after such Award: And whereas the Whole of the Salt Marshes embanked by virtue of the said Embankment Act were in imminent Danger, and several of the Owners and Occupiers thereof voluntarily laid out very considerable Sums of Money for the Repair, Preservation, and Support of the said New Sea Bank, and the Works thereto belonging, and thereby prevented an Extension of the Injury: And whereas the said Embankment Commissioners having made their Award previously to *Thursday* in *Easter* Week One thousand eight hundred and eleven, the First Set of Committee-men under the said Embankment Act were appointed on that Day, and they applied themselves, without Delay, to the further Reparation and Amendment of the said New Sea Bank, and the Works thereto belonging, in doing which they found it necessary to abandon a considerable Quantity of Land within the Line of the original Embankment, and to make a Part of the said Bank in a new Line within the said original Embankment: And whereas the same Committee-men, in *June* One thousand eight hundred and eleven, made a Rate or Assessment of One Pound Ten Shillings *per* Acre on all the embanked Salt Marshes within the Embankment, for the Purpose of discharging not only the Expences incurred under their Direction but also all the reasonable Expences which had been incurred by the several Owners and Occupiers of the said Salt Marshes in the Repairs and Amendments so voluntarily done by them as aforesaid: And whereas such Rate or Assessment hath been for the most Part paid, and the Committee-men for the Time being have, out of the Monies received by virtue thereof, repaid to many of the said Owners and Occupiers the Whole or Part of the Monies which had been so expended by them in repairing and amending the said New Sea Bank and Works; and also paid large Sums in or towards discharging the Expences of the Repairs and Amendments done under their own Direction: And whereas Doubts have been raised, whether the said Committee-men could legally apply any of the Money so raised in Discharge of Expences incurred without their previous Authority, and also whether they were empowered by the said Embankment Act to deviate in any respect from the old Line of Embankment, or to do any Repairs whatever to the said Embankment and Works, before making the Rate or Assessment intended for discharging the Expences thereof; be it enacted, That all Payments and Allowances made or hereafter to be made by the said Committee-men for the Time being, to the Owners or Occupiers of any of the said embanked Salt Marshes for the reasonable Expences heretofore incurred by them respectively in repairing and amending the said New Sea Bank, or any of the Works thereto belonging; and also that the Payments made and hereafter to be made for the Repairs and Amendments already done to the said Bank, and the Works thereto belonging, by the Direction of the said Committee-men for the Time being, and for the new making a Part of the said Sea Bank under the Direction of the said Committee-men for the Time being, shall be, and shall be deemed and taken to have been and to be a proper and lawful Application of the Monies received and to be received by virtue of the Rate or Assessment so heretofore made, or of any Rates or Assessments to be hereafter made by the said Committee-men for the Time being;

Payments by  
Committee-  
men con-  
firmed.



being; and that the Part of the Bank so made in a New Line as afore-  
 said shall be vested in the said Trustees and their Successors, in Trust  
 for the Purposes of the said Embankment Act and this Act, in the  
 same Manner as the other Parts of the said Sea Bank are now vested in  
 them by the said Embankment Act; and that it shall and may be law-  
 ful for the said Committee-men for the Time being, at any Time or  
 Times hereafter, to make any Alteration in the then existing Line of  
 Bank, whenever it shall in their Judgment be necessary or expedient  
 so to do, provided that no Part of any such New Line of Embankment  
 shall be thereby made to extend towards the Sea beyond the Line of  
 the original Embankment made by virtue of the said Embankment  
 Act; and that every such new Line of Bank shall from Time to Time  
 be vested in the said Trustees and their Successors, in Trust for the  
 Purposes of the said Embankment Act and this Act, in the same Man-  
 ner as the other Parts of the said Sea Bank are or shall be vested in them  
 by the said Embankment Act and this Act.

New Line of  
 bank con-  
 firmed.

XII. And be it further enacted, That it shall and may be lawful to  
 and for the said Committee-men for the Time being, and they are here-  
 by authorized and empowered, from Time to Time, when Need or Oc-  
 casion shall seem to them to require, and either before or after making  
 any Rate or Assessment intended for the Purpose of discharging the Ex-  
 pences to be thereby occasioned, to cause such Houses for the Residence  
 of Sluice-keepers, to be from Time to Time erected; and also to cause  
 such Repairs and Amendments in and to the said Embankment, and the  
 Works thereto belonging, to be from Time to Time made, done,  
 and executed; as in their Judgment may be proper and necessary for  
 the Protection, Care, and due Preservation and Support of the said  
 Embankment, and of the Lands and Grounds within the Purview of  
 the said Embankment Act and this Act, and from Time to Time to  
 pay and discharge the Expences of erecting all such Houses, and of all  
 such Repairs and Amendments, out of the Monies raised or to be raised  
 by virtue of any Rate or Assessment, Rates or Assessments made or to  
 be made by the said Committee-men for the Time being, in pursuance  
 of the said Embankment Act or of this Act.

Committee-  
 men to do all  
 necessary Re-  
 pairs for Pres-  
 ervation of  
 Embank-  
 ment.

XIII. And be it further enacted, That the Rate and Assessment so  
 already made as aforesaid by the said Committee-men shall be deemed  
 and considered to be a good and valid Rate and Assessment, payable  
 without further Demand or Notice to the said Committee-men, or their  
 Collector or Collectors for the Time being; and that the Powers and  
 Remedies herein-after provided, for compelling and enforcing the Pay-  
 ment of Rates and Assessments to be hereafter made by the said  
 Committee-men for the Time being, shall extend, and be construed to  
 extend, to the compelling and enforcing the Payment of the said former  
 Rate and Assessment so made by the said Committee-men, and all  
 Arrears thereof; and that such Powers and Remedies may hereafter be  
 exercised, notwithstanding an Action or Actions of Replevin may in  
 some Cases be now depending in consequence of a Distress or Distresses  
 heretofore made; which Action or Actions of Replevin shall, after  
 the passing of this Act, be discontinued; and that the said Committee-  
 men for the Time being shall, upon Demand, pay the Costs already

Rate already  
 made by  
 Committee-  
 men may be  
 recovered  
 under the  
 Powers of  
 this Act.

[Loc. & Per.]

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incurred



incurred by the Plaintiff or Plaintiffs in any such Action or Actions; such Costs to be taxed by the proper Officer of the Court in which such Action or Actions is or are depending.

XIV. And whereas by the said Embankment Act it is enacted, that before the Rates, Taxes, or Assessments thereby directed and authorized to be made by the Committee-men, or by the Superintendant under the said Embankment Act, shall be recoverable, Demand of Payment thereof shall be made by such Superintendant: And whereas by reason of the great Number of Proprietors of the said Salt Marshes of *Gedney* and *Moulton*, which were heretofore commonable, and from other Causes, it has been found inconvenient to make such Demand; be it therefore enacted, That so much of the said Embankment Act as requires a Demand by the Superintendant of Payment of the Rates and Assessments which shall be made by the said Committee-men for the Time being, or of the Annual Taxes or Rates which shall be made by the said Superintendant, shall be, and the same is hereby repealed.

Directions of Embankment Act requiring a Demand of Rates repealed.

Power to recover Rates by Distress and Sale.

XV. And be it further enacted, That in all Cases when any Rate or Assessment shall be made or charged upon the Marshes, Lands, and Grounds comprized within the said Embankment, by the said Committee-men for the Time being, Notice of such Rate or Assessment, and of the Day and Place, within one of the said Parishes of *Spalding*, *Moulton*, *Whaplode*, *Holbech*, and *Gedney*, upon and at which the same is appointed and required to be paid, shall be given and published for three successive Weeks in some Newspaper or Newspapers circulating in the County of *Lincoln*; and the like Notice in Writing shall also be affixed to the principal Door of each of the several Parish Churches of *Spalding*, *Moulton*, *Whaplode*, *Holbech*, and *Gedney*, Twenty Days previous to the Time appointed for Payment of such Rate or Assessment; and if the Rate or Assessment in question shall not be paid and discharged at the Time appointed for Payment thereof, it shall and may be lawful for the said Committee-men for the Time being, or any Person or Persons appointed by them in Writing, and they and he are and is hereby empowered to enter into and upon the Lands or Grounds so charged as aforesaid, of any Person or Persons refusing or neglecting to pay his, her, or their Share or Proportion of such Rate or Assessment, or into and upon any Part or Parts of such Lands or Grounds, in the Name of the Whole, and to levy the Amount of such Share or Proportion of such Person or Persons so neglecting or refusing, by Distress and Sale of the Goods and Chattels which shall be found thereon, together with all Costs occasioned by such Non-payment and attending such Entry, Distress, and Sale, and otherwise to act therein according to the Laws now in being for distraining in Cases of Non-payment of Rent reserved on common Demises.

XVI. And be it also enacted, That the Superintendant under the said Embankment Act and this Act shall, and he is hereby required from Time to Time to give or cause to be given Notice in Writing, of the Time and Place within one of the said Parishes of *Spalding*, *Moulton*, *Whaplode*, *Holbech*, and *Gedney*, when and where the Annual Tax or Rate which shall be charged by and made payable to him under the Powers of the said Embankment Act and this Act, or either of them, shall be paid, by affixing such



such Notice to the principal Door of each of the said several Parish Churches of *Spalding, Moulton, Whaplode, Holbech, and Gedney*, on some *Sunday* Ten Days previous to the Day appointed for the Payment thereof; and if the same shall not be paid to the said Superintendant at the Time appointed for the Payment thereof; it shall be lawful for the said Superintendant, by Warrant under the Hand of Two or more of the said Committee-men for the Time being, to enter into and upon the Lands or Grounds charged therewith, of any Person or Persons refusing or neglecting to pay his, her, or their Share or Proportion of such Annual Tax or Rate, or into and upon any Part or Parts of such Lands or Grounds in the Name of the Whole, and to levy the Amount of such Share or Proportion of such Person or Persons so neglecting or refusing, by Distress and Sale of the Goods and Chattels which shall be found thereon, together with all Costs occasioned by such Non-payment, and attending such Entry, Distress, and Sale, and otherwise to act therein according to the Laws now in being for distraining in Cases of Non-payment of Rent reserved on common Demises; and in case and when and so often as any Distress which shall be made, either by the said Committee-men for the Time being, or by any Person or Persons appointed by them as aforesaid, or by the said Superintendant for the Time being, shall be replevied, it shall be sufficient for the Defendant or Defendants in any Action of Replevin to be thereupon commenced to avow or make Cognizance as the Case may be, that such Distress was made to recover a Sum to be specified in respect of a certain Rate or Rates, Assessment or Assessments, before the Time of making such Distress charged or assessed under and by virtue of the said Embankment Act and this Act, or one of them.

XVII. And be it further enacted, That if any Rate or Assessment which shall be rated or assessed by the said Committee-men for the Time being, or any Annual Tax or Rate which shall be charged by the said Superintendant for the Time being, under the Powers and by virtue of the said Embankment Act or of this Act, or any Share or Proportion thereof, shall not be paid within Thirty Days after the Time when such Rate or Assessment or Annual Tax or Rate respectively shall be payable, then and in such Case, and whenever it shall so happen, the same shall be recoverable, together with Costs of Suit by the said Committee-men, or the said Superintendant for the Time being, as the Case may require, by Action of Debt in any of His Majesty's Courts of Record at *Westminster*, against the Owner or Owners, or Occupier or Occupiers of the Lands or Grounds charged with the same Rate or Assessment, in which Action it shall be sufficient for the Plaintiff or Plaintiffs to declare that the Defendant or Defendants, at the Time of the Commencement thereof, was or were indebted to such Plaintiff or Plaintiffs in a Sum of Money to be specified, payable on Demand, in respect of a certain Rate or Rates, Assessment or Assessments, Tax or Taxes, charged or assessed under the said Embankment Act and this Act, or one of them; and in which Action no Essoign, Protection, or Wager of Law, or more than one Imparance shall be allowed.

XVIII. And whereas under the Provisions of the said Embankment Act the Persons thereby appointed Trustees for the Purposes of that Act can only meet annually on *Thursday* in *Easter Week*, and it is expedient



Trustees may meet more than once a Year on giving Notice.

Trustees to settle Accounts of Committee-men at the Annual Meeting.

At Meetings of Trustees, Questions to be determined by a Majority.

Attendance of Delegates not essential to the Validity of the Acts of the Trustees.

Superintendent's Salary may be increased by the Trustees.

pedient that they should be at Liberty to meet oftener; and also that they should have Power to examine, check, and settle the Accounts of the Committee-men; be it therefore further enacted, That it shall be lawful for the Trustees for the Time being of the said Embankment Act, or their Agents, appointed or to be appointed in Writing, to meet at any Time and Place for any of the Purposes of that Act and this Act, after Notice of any such intended Meeting shall have been given by Three or more of them, for Three successive Weeks, in any Newspaper or Newspapers circulating in the County of *Lincoln*, and shall also have been affixed to the principal Doors of each of the Parish Churches of *Spalding, Moulton, Whaplode, Holbeck, and Godney*, Twenty Days previous to the Day appointed for any such Meeting; at all which Meetings it shall be lawful for the said Trustees for the Time being, by themselves or their Agents, and they are hereby authorized and empowered to do all or any such Acts, Matters, and Things, with such and the same Effect, and to such and the same Ends, Intents, and Purposes, as by the said Embankment Act they are authorized or required to do at their Annual Meetings; and that at every Annual Meeting to be hereafter had of the said Trustees, or their Agents, on *Thursday* in *Easter* Week, the Committee-men shall produce an Account in Writing for the Year preceding, of the several Sums received and paid by them for any of the Purposes of the said Embankment Act or this Act, and the Vouchers for the same Account, and that it shall be lawful for the Trustees then present, by themselves or Agents, and they are hereby required to examine, settle, and allow the same Account, and that the Balance thereof shall be ascertained and certified by the Chairman of every such Annual Meeting; and that at all Meetings of the Trustees for the Purposes of the said Embankment Act or of this Act, the Elections to be made, and the Questions agitated, shall be determined by the Majority of Trustees present, by themselves or Agents, and that in case of an Equality of Votes, including the Vote of the Chairman, the Chairman shall have the casting Vote.

XIX. And be it further enacted, That no Acts, Matters, or Things already made or done, or hereafter to be made or done by the Trustees for the Time being, under the said Embankment Act or this Act, shall be impeached or rendered invalid by reason of the Non-appointment of all or any of the Delegates authorized to be appointed by the said Embankment Act and this Act, or either of them, or by reason of all or any of such Delegates not appearing or not acting as Trustees at the making or doing of such Acts, Matters, or Things as aforesaid.

XX. And whereas it may be thought reasonable to increase the Salary of the said Superintendent for the Time being, be it therefore enacted, That it shall be lawful for the said Trustees for the Time being, at any of their Meetings to be holden under the Authority of the said Embankment Act and this Act, on *Thursday* in *Easter* Week from Year to Year, as they shall see Occasion, by Writing under their Hands, to increase the Salary of the said Superintendent beyond the Sum of Forty Pounds *per Annum* in the said Act mentioned; to such other Sum as they in their Discretion shall think proper and reasonable, and again from Time to Time, at their said Annual Meeting;

to



to reduce and again to increase the said Salary if they shall see Occasion, and so *toties quoties*.

XXI. And whereas under the Regulations of the said Embankment Act no Person other than a Trustee can be elected a Committee-man, in case a sufficient Number of Trustees shall be found willing to be appointed; but it is expedient that such Regulation should be altered; be it therefore enacted, That from and after the passing of this Act any Person or Persons who shall be proposed at any such Meeting by any Trustee or Agent of any Trustee then present, may be elected a Committee-man or Committee-men for the Purposes of the said Embankment Act and of this Act, although there may be a sufficient Number of Trustees willing to be appointed.

Persons not Trustees may be elected Committee-men, although Trustees willing to be appointed.

XXII. And whereas it is expedient to provide for the Case of Committee-men dying or refusing or becoming incapable to act during the Period for which they are elected; be it therefore enacted, That when and so often as any such Committee-man or Committee-men shall die or refuse or in any way become incapable to act during the Period for which he or they shall be elected, it shall be lawful for the Trustees of the said Embankment Act, or their Agents, at any Meeting to be called in Manner herein-before directed, to nominate a Committee-man or Committee-men in the Place of him or them so dying, or refusing, or becoming incapable to act; and that the Person or Persons so elected shall have the same Powers and Authorities in all respects as the Committee-man or Committee-men, in whose Place or Stead he or they shall or may be appointed, could or might have had and exercised, if then living, and continuing to act in the Affairs of the said Embankment Act.

In Cases of Death of Committee-men, new ones to be appointed.

XXIII. And, for the more convenient Performance of the Duties of the Committee-men, be it further enacted, That it shall and may be lawful to and for the said Committee-men for the Time being, at any of their Meetings, to nominate and appoint any Person or Persons to be a Treasurer or Treasurers of the Embankment Fund; and that after such Treasurer or Treasurers shall have given to the said Committee-men such Security as they shall approve of, for applying the Money to be received by such Treasurer or Treasurers as the said Committee-men for the Time being shall direct, (which Security the said Committee-men are hereby required to take,) the Monies from Time to Time to be received by virtue of any Rate or Assessment, Rates or Assessments made or to be made by the said Committee-men for the Time being, shall be paid to such Treasurer or Treasurers, (instead of being paid to the Superintendent of the said Embankment, as by the said Embankment Act is directed), and also to nominate and appoint any Person to act as Clerk to the said Committee-men, and also to nominate and appoint as many Sluice-keepers, not exceeding Eight, as they shall see fit; and from Time to Time to remove any such Treasurer or Treasurers, Sluice-keeper or Sluice-keepers, or Clerk, and in Cases of Removal or Death, to nominate and appoint any other Person or Persons in his or their Room or Stead, and to grant to such Clerk and Sluice-keepers such Salaries and Compensations as to the said Committee-men for the Time

Power to appoint Treasurers, Clerks and Sluice-keepers.



being shall seem meet to be paid; and also to make such Compensation to the Person who has hitherto discharged the Duties of Clerk to the Committee-men, as they shall think proper and reasonable, by and out of the Monies to be received by virtue of any Rate or Assessment, Rates or Assessments made or to be made by virtue of the said Embankment Act or of this Act.

Expences of Meetings of Committee-men to be paid out of the Rates.

XXIV. And be it further enacted; That it shall be lawful for the said Committee-men for the Time being; and they are hereby empowered from Time to Time, to pay and discharge such reasonable Expences as shall be incurred at their several Meetings, by and out of the Monies received or to be received by virtue of any Rate or Assessment, Rates or Assessments, made or to be made by them; provided that no more than the Sum of Five Pounds shall be paid for the Expences of any One Meeting.

Power for Committee-men to borrow Money.

XXV. And whereas it may happen that sudden and unforeseen Damage or Injury may arise to or be sustained by the said Embankment, or the Sluices, Bridges, Drains, or other Works belonging thereto; for repairing whereof it may be expedient or necessary to raise Money before any Rate or Assessment for the Purpose can be made or be recovered by the said Committee-men; be it therefore enacted, That in any such Case the said Committee-men for the Time being shall and they are hereby authorized and required to borrow and take up at Interest, upon the Credit of the Rates or Assessments which they are by the said Embankment Act or this Act authorized and empowered to charge and impose, such Sum or Sums of Money as they shall in their Judgment deem necessary and requisite for paying the Expences of making good and repairing any such Damage or Injury, or otherwise, for the Purposes of the said Embankment Act or this Act, which Money so borrowed shall be repaid to the Person or Persons lending the same, with such Interest, not exceeding the Rate of Five Pounds *per Centum per Annum*, as may be agreed upon, out of the first Monies that shall afterwards be raised by the said Committee-men for the Time being, under the Authority of the said Embankment Act or of this Act.

Power to charge on Estates the Amount of Rates made by Committee-men.

XXVI. 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 the Owners or Proprietors of any Part or Parts of the Salt Marshes within the Purview of the said Embankment Act, or any Part or Parts thereof, being under Coverture, Minors, 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 the said Owners or Proprietors being Tenants in Tail, or for Life, or only Tenants in Tail after Possibility of Issue extinct, or Tenants in Dower, or being seized 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 Part, Share, or Proportion of and in the said Salt Marshes belonging to such Owners or Proprietors respectively, with any Sum or Sums of Money which hath or have been or which shall or may be advanced or applied in or towards Payment of the Assessment or Assessments so in the said

Award



Award expressed to be made as aforesaid by the said Embankment Commissioners in respect of the said late Commonable Salt Marshes of *Godney* and *Moulton* respectively, or in or towards Payment of any Rate or Assessment, Rates or Assessments, made or to be made by the said Committee-men for the Time being under or by virtue of the said Embankment Act and this Act; and for securing the Re-payment of such Sum or Sums of Money with Interest, to grant, mortgage, lease, or demise, or otherwise subject the Part or Share, or Proportion of such Owners or Proprietors respectively, of and in the said embanked Salt Marshes 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 with 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; 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 comprised, 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 whole Year 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.

XXVII. And whereas it is expedient to make further Regulations for the Preservation of the said Embankment and other Works, be it therefore further enacted, That it shall and may be lawful for any Person or Persons whomsoever to drive any Horse or Horses, Swine or Cattle, except Sheep, which shall be found upon the said New Sea Bank, to the Common Pound or Fold of the Parish where such Horse or Horses, Swine or Cattle (except Sheep) shall be found, and the Pindar or Fold Keeper of the said Parish is hereby directed to impound and hold the same in his Custody, and to feed them while they shall so remain in his Custody; and the same shall not be repleviable, but shall remain in the Custody of the Pindar or Fold Keeper for the Time being until he shall have been paid, for each and every of such Swine so impounded, the Penalty or Sum of Ten Shillings, and for each and every of such Horses or other Cattle so impounded, the Penalty or Sum of One Pound, together with all Costs of taking, impounding, and feeding the same, during the Time they shall remain impounded; and if the Penalty or Penalties, together with such Costs, shall not be accordingly paid within the Space of Fourteen Days after the Time of the delivering such Horse or Horses, Swine or Cattle, it shall be lawful for the said Superintendant for the Time being, at any Time thereafter, to sell or cause to be sold the Distress so impounded by Auction at the Market Town nearest the Common Pound, on some Market Day, between the Hours of Twelve at Noon and Two in the Afternoon, and to apply the Money arising by such Sale, in the first Place, in Payment of all Costs and Charges attending the impounding, detaining, keeping, and feeding the said Horse or Horses, or Swine or Cattle so impounded, and the Sale and Disposal thereof; and in the

Banks not to be stocked otherwise than with Sheep.



next Place, in Payment and Satisfaction of the said Penalty or Penalties incurred; and in case there shall be any Surplus, the same shall be paid to and remain in the Hands of the said Superintendant; to be by him returned and paid to the Owner or Owners of the said Horse or Horses, Swine or Cattle so impounded, on Demand.

Vessels not to be moored to any Sluice, or within Eighty Yards.

XXVIII. And be it further enacted, That if any Person or Persons shall lash or tie, or make fast any Cord, Rope, or Cable to any of the Balustrades, Wings, Piles, Doors, or any other Part of any Sluice or Tunnel, or other Works made or to be made in or through the said New Sea Bank, for the Purpose of mooring or staying any Barge, Boat, or other Vessel, or shall moor, stay, or fasten, or cause or procure to be moored, stayed, or fastened any Barge, Boat, or other Vessel, within the Distance of Eighty Yards from any such Sluice or Tunnel, or other Works, every Person so offending shall for every Offence forfeit and pay to the said Committee-men for the Time being the Penalty or Sum of Fifty Pounds.

Any Three of the Committee-men may act.

XXIX. And be it further enacted, That all Acts, Matters, and Things hereby or by the said Embankment Act directed and authorized to be done by the said Committee-men for the Time being, may be done and executed by any Three of them, and that the same shall be as valid and effectual as if done and executed by all the said Committee-men for the Time being.

Committee-men to sue and be sued in the Name of their Clerk. Suits not to abate by Changes.

XXX. And be it further enacted, That the said Committee-men for the Time being shall or may sue and be sued in any Action or Actions, Suit or Suits, to be commenced or prosecuted in respect of any Matter or Thing arising out of the said Embankment Act or this Act, in the Name of their Clerk, and that no such Action or Suit shall abate or be discontinued by reason of the total or partial Change of the said Committee-men, or by reason of the Death or Removal of their Clerk, or by the Act of such Clerk without the Consent of the said Committee-men; but the Proceedings in every such Action or Suit shall be carried on to Execution, if necessary, in the Name of their Clerk, by or against whom such Action or Suit shall have been commenced; and that no Action or Suit which shall or may be commenced or prosecuted by or against the said Superintendant for the Time being, in respect of any Matter or Thing arising out of the said Embankment Act or this Act, shall abate or be discontinued by reason of the Death or Removal of such Superintendant, but that the Proceedings in every such last mentioned Action or Suit shall be carried on to Execution, if necessary, in the Name of the Superintendant, by or against whom the same shall have been commenced.

Entries of Proceedings of Trustees and Committee-men good Evidence.

XXXI. And be it further enacted, That from and after the passing of this Act fair and regular Entries shall be made in a Book or Books to be provided for that Purpose, of all the Acts, Orders, Rules, Regulations, Directions, and Proceedings of the said Trustees, and of the said Committee-men for the Time being, relative to the Execution of the said Embankment Act and this Act, and of the Names of the Persons who shall be present at the respective Meetings, and the same shall be subscribed with the Name of the Chairman of each respective Meeting; and all such Entries being so signed shall be deemed Originals, and



and shall be allowed to be read in Evidence in all Courts and on all Occasions whatsoever.

XXXII. And be it further enacted, That in any Action or Suit hereafter to be brought by or against the said Committee-men or Superintendant for the Time being, or any of the Persons acting in the Execution of the said Embankment Act or this Act, for any Cause, Matter or Thing arising out of the same Acts, or either of them, the Appointments of Committee-men, Superintendant, Clerk, Treasurers, Collectors, Sluice-keepers, or other Officers or Persons appointed or to be appointed by the said Trustees, or by the said Committee-men for the Time being, under the Authority of the said Embankment Act or this Act, the Books of Entries of the Proceedings of the said Trustees, and of the said Committee-men for the Time being, the Rates or Assessments made or to be made by the said Committee-men and Superintendant, or either of them for the Time being, and the Notices of any such Rate or Rates to be hereafter made, shall upon the Trial of any such Action or Suit stand admitted in Evidence, unless the other Party or Parties shall, if Defendant or Defendants, at or before the Time of pleading, or if Plaintiff or Plaintiffs, before Issue joined in such Action or Suit, give Notice in Writing to the Attorney for the Plaintiff or Plaintiffs, Defendant or Defendants, that he, she, or they intend to dispute such Appointment or Appointments, or any Entry or Entries, Proceeding or Proceedings, Rate or Assessment, Rates or Assessments, Notice or Notices, or such of them as shall be particularly specified in the said Notice so hereby required to be given as aforesaid; and where in any such Action or Suit any such Notice shall have been given, if the Plaintiff or Plaintiffs, Defendant or Defendants, as the Case may be, shall at the Trial prove the Matter or Matters required to be proved in and by such Notice or any of them, or if the other Party or Parties shall at the Trial admit the same, the Judge before whom the Cause shall be heard shall, if he shall see fit, grant a Certificate that such Proof or Admission was made upon such Trial, and the Plaintiff or Plaintiffs, Defendant or Defendants, as the Case may be, to whose Attorney such Notice shall have been given as aforesaid, shall be entitled to the full Costs of Suit to be occasioned by such Notice, and by the Preparation for Proof of the Matter or Matters so proved or admitted; such Costs to be taxed by the proper Officer of the Court in which the Action or Suit shall be tried as aforesaid, and such Costs shall, in case such Plaintiff or Plaintiffs, Defendant or Defendants, as the Case may be, to whose Attorney such Notice shall have been given as aforesaid, shall obtain a Verdict, be added to his or her Costs; and if the other Party or Parties shall obtain a Verdict, then such Costs shall be deducted from the Costs which the Party or Parties giving such Notice as aforesaid would otherwise be entitled to receive from the Person or Persons to whose Attorney such Notice shall have been given as aforesaid; and in case the Costs occasioned as aforesaid shall exceed the Costs which the Party giving such Notice would otherwise have been entitled to receive, the Person or Persons to whose Attorney such Notice shall have been given as aforesaid, shall be entitled to recover the Difference of the said Costs in like Manner



as if Coſts had been awarded to ſuch laſt mentioned Perſon or Perſons.

Sufficient in Proceedings to ſtate Property to belong to Trustees, &c.

XXXIII. And be it further enacted, That in all Pleadings and Proceedings whatſoever, wherein it ſhall be neceſſary to ſtate that any Articles, Materials, or Things, is or are the Property of the ſaid Trustees for the Time being acting under the ſaid Embankment Act and this Act, it ſhall be ſufficient to ſtate that all and every ſuch Articles, Materials, and Things, is and are the Property of the Trustees of the *South Holland* Embankment Acts, without particularly ſtating or ſpecifying all and every the Names and Name of the ſaid Trustees for the Time being.

Perſons intereſted, not on that Account incompetent Witneſſes.

XXXIV. And be it further enacted, That in all Actions, Proſecutions, Informations, Cauſes and Proceedings whatſoever, relating to or concerning the Execution of the ſaid Embankment Act or this Act, no Owner or Occupier, or other Perſon intereſted in the Marſhes, Lands, and Grounds lying within the Purview of the ſame Acts, ſhall by reaſon of his or her Ownership, Occupancy, or Intereſt, be deemed an incompetent Witneſs.

Penalties and Forfeitures how to be applied.

XXXV. And be it further enacted, That each and every Penalty or Forfeiture hereby or by the ſaid Embankment Act impoſed or authorized to be impoſed (the Manner of levying and recovering whereof is not herein or by the ſaid Embankment Act otherwiſe particularly directed) ſhall, upon Proof of the Offence before any one of His Majeſty's Juſtices of the Peace for the Diviſion of *Holland* in the ſaid County of *Lincoln*, either by the Confefſion of the Offender or Offenders, or by the Oath of one or more Witneſs or Witneſſes, (which Oath ſuch Juſtice is hereby empowered to adminiſter,) be levied and recovered, by Diſtreſs and Sale of the Goods and Chattels of the Offender or Offenders, by Warrant under the Hand and Seal of ſuch Juſtice, which Warrant he is hereby empowered to grant for ſuch Purpoſe; and the Overplus, if any, of the Monies ariſing by ſuch Diſtreſs and Sale, ſhall be returned upon Demand to the Owner or Owners of ſuch Goods and Chattels, after deducting the Coſts and Charges of making, keeping, and ſelling the Diſtreſs; and each and every ſuch Penalty and Forfeiture, when recovered, if not otherwiſe directed, to be applied by or by virtue of the ſaid Embankment Act or this Act, ſhall be from Time to Time paid to the ſaid Superintendant for the Time being, and be by him applied and diſpoſed of for the Purpoſes of the ſaid Embankment and the Works thereto belonging, as the ſaid Committee men for the Time being ſhall direct; and in caſe ſufficient Diſtreſs ſhall not be found, and the Penalty or Forfeiture in queſtion ſhall not be forthwith paid, it ſhall and may be lawful for any ſuch Juſtice of the Peace as aforeſaid, and he is hereby authorized and required, by Warrant under his Hand and Seal, to cauſe the Offender or Offenders to be committed to the common Gaol in and for the ſaid Diviſion of *Holland*, there to remain without Bail or Mainprize, for any Time not exceeding Six Calendar Months, unleſs ſuch Penalty or Forfeiture, and all reaſonable Charges and Expences



pences attending the Proceedings against such Offender or Offenders shall be sooner paid and satisfied.

XXXVI. And be it further enacted, That in all Cases where any Conviction shall be had for any Offence or Offences committed against the Provisions of the said Embankment Act or this Act, or against any Order of Sessions, or any other Matter or Thing done in the Execution of the said Embankment Act or this Act, the Form of Conviction may be in the Words or to the Effect following; (that is to say),

BE it remembered, That on this \_\_\_\_\_ Day of \_\_\_\_\_  
 in the Year of our Lord \_\_\_\_\_  
 is convicted before \_\_\_\_\_ of His Majesty's  
 Justices of the Peace for the \_\_\_\_\_  
 of having [*as the Offence shall be*] and I [*or we*] the said \_\_\_\_\_  
 do adjudge him [*her or them*] to forfeit \_\_\_\_\_  
 and pay for the same the Sum of \_\_\_\_\_ Given  
 under my Hand and Seal, [*or our Hands and Seals,*] the Day and  
 Year aforesaid.

XXXVII. And be it further enacted, That no Order or other Proceedings whatsoever relative to the Conviction of any Offender or Offenders against the Provisions of the said Embankment Act or this Act, or any other Matter or Thing done in the Execution of the said Embankment Act or this Act, shall be quashed or vacated for Want of Form only.

XXXVIII. Provided always, and be it further enacted, That it shall be lawful for the said Committee-men for the Time being, whenever they shall see Cause, to direct any Part of any such Penalty or Forfeiture, which they shall think reasonable to be paid to or for the Use of any Informer or Informers, or any Person or Persons aiding or assisting in the Apprehension or in the Prosecution to Conviction of any Offender or Offenders.

XXXIX. And be it further enacted, That when any Distress shall be made in pursuance of the Powers herein-before given, or any of them, 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 any of the 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 so distraining, but the Person or Persons aggrieved by such Irregularity shall or may recover full Satisfaction for the special Damage in an Action of Trespass on the Case.

XL. And be it further enacted, That no Plaintiff or Plaintiffs shall recover in any Action to be commenced against any Person or Persons, Body Corporate or Politic, for any Thing done in pursuance of the said Embankment Act or this Act, other than an Action of Replevin,



or after Tender of Amends, &c.

vin, unless Notice in Writing of such intended Action, signed by the Attorney for the Plaintiff or Plaintiffs, and specifying the Cause of Action, shall have been given to the Defendant or Defendants, or left at his or their last or usual Place or Places of Abode Thirty Days before such Action shall be commenced, nor shall the Plaintiff or Plaintiffs recover in any such Action as aforesaid, if Tender of sufficient Amends shall have been made to him, her, or them, or to his, her, or their Attorney, by or on the Behalf of the Defendant or Defendants, before such Action brought; but on Proof of such Tender, at any Trial to be had in such Action, the Plaintiff or Plaintiffs shall suffer Judgment as in Cases of Nonsuit, with Double Costs, to be recovered in the same Manner as any Defendant or Defendants may recover Costs in any other Case by Law; or in case no such Tender shall have been made before Action brought, it shall and may be lawful to and for the Defendant or Defendants in any such Action, by Leave of the Court where such Action shall be depending in Term, or of a Judge of the same Court in Vacation, at any Time before Issue joined, to pay into Court such Sum of Money as he, she, or they shall think fit, whereupon such Proceedings, Order, and Judgment shall be had, made, and given in and by such Court, as in other Actions where the Defendant is allowed to pay Money into Court.

Limitation of Actions.

XLI. Provided always, and be it further enacted, That no Action or Suit shall be commenced against any Person or Persons, or Body Politic or Corporate, for any Thing done in pursuance of the said Embankment Act or this Act, after the Expiration of Six Calendar Months next after the Fact committed and every such Action or Suit shall be tried in the County of *Lincoln* and not elsewhere; and the Defendant or Defendants in every such Action or Suit may plead the General Issue, or may avow or make Cognizance, as herein-before is provided, according to the Nature of the Case, and may give this Act and the special Matter in Evidence at any Trial to be had in any such Action or Suit; and if the same shall appear to have been done in pursuance or under the Authority of the said Embankment Act or this Act, or that such Action or Suit shall have been brought before Thirty Days Notice (except in *Replevin*) shall have been given, or after a sufficient Satisfaction tendered as aforesaid, or after the Time limited for bringing the same as aforesaid; or if the same shall be brought in any other County than in the said County of *Lincoln*, then and in every such Case the Jury shall find for the Defendant or Defendants; and upon such Verdict, or if the Plaintiff or Plaintiffs shall be nonsuited or discontinue his or their Action or Suit after the Defendant or Defendants shall have appeared, or if upon Demurrer, Judgment shall be given against the Plaintiff or Plaintiffs, then the Defendant or Defendants shall recover Double Costs, and shall have such Remedy for recovering the same as any Defendant or Defendants hath or have for his, her, or their Costs, in any other Cases by Law.

Provisions of Embankment Act to extend to this Act.

XLII. And be it further enacted, That the said recited Embankment Act of the Thirty-third Year of the Reign of His present Majesty, and all



all and every the Powers, Authorities, Provisions, Regulations, Clauses, Articles, Matters, and Things therein contained, (save and except such Part and Parts thereof as have already ceased and determined, and also save and except such Part and Parts thereof as is and are hereby altered, varied, amended, or repealed,) shall be and remain in full Force and Effect, and the same, as far as they are applicable, shall be as good, valid, and effectual to all Intents and Purposes whatsoever, for carrying the said recited Embankment Act and this Act into Execution, as if the same had been repeated and re-enacted in the Body of this Act.

XLIII. And be it further enacted, That all the Costs, Charges, and Expences of or attending the several Meetings of Proprietors held in consequence of the Damage done to the said Embankment by the high Tide and Tempest in the Month of *November* One thousand eight hundred and ten, and of the several Meetings of the Committee appointed at one of the said Meetings of Proprietors, and in, about, and concerning the subject Matters of such Meetings, and all the Expences of the Surveys and Plans made and drawn in respect of such Embankment, and all the Expences which have been incurred preparatory to, and in, about, and attending the applying for and passing this Act, and of carrying the same into Execution, shall be paid by the Committee-men for the Time being acting under the said Embankment Act or this Act, in the first place, out of any Monies received or to be received by virtue of any Rate or Assessment, Rates or Assessments made or to be made by the said Committee-men for the Time being, under the Authority of the said Embankment Act or of this Act; and also, that all Costs, Charges, Damages, and Expences whatsoever incurred or hereafter to be incurred by the said Committee-men or Superintendant for the Time being, in or about the carrying on or defending, or in consequence of any such Action or Suit as aforesaid, or in or about any Prosecution or other legal Proceeding whatsoever in anywise arising out of or relating to the Execution of the said Embankment Act or this Act, shall be paid by the said Committee-men for the Time being out of the Monies received or to be received by virtue of any Rate or Assessment, Rates or Assessments made or to be made by the said Committee-men for the Time being, under the Authority of the said Embankment Act or of this Act.

XLIV. And be it further enacted, That the Money which shall be lent or advanced by any Person or Persons for the Purpose of defraying the Expences of applying for, obtaining, and passing this Act, shall be repaid, with lawful Interest, to the Person or Persons who shall have lent or advanced the same, his, her, or their Executors or Administrators, out of the first Monies to be received by virtue of any Rate or Assessment, Rates or Assessments, made or to be made by the said Committee-men for the Time being under the Authority of the said Embankment Act or of this Act.

[*Loc. & Per.*]

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XLV. And



Public Act. XLV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded:

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LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1812.