



ANNO QUARTO

# GEORGII IV. REGIS.

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## *Cap. ciii.*

An Act to amend and render more effectual an Act passed in the Forty-seventh Year of the Reign of His late Majesty King *George* the Third, for repealing several Acts therein mentioned, for draining certain Fen Lands in the Isle of *Ely* and Counties of *Suffolk* and *Norfolk*, near *Mildenhall* River, so far as relates to the Lands in the First District therein described, and for making better Provision for draining and preserving the said Lands. [17th *June* 1823.]

**W**HEREAS an Act was passed in the Forty-seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for repealing several Acts of the Thirty-third Year of King George the Second, and the Thirteenth and Thirty-seventh Years of His present Majesty, for draining certain Fen Lands in the Isle of Ely and Counties of Suffolk and Norfolk, near Mildenhall River, so far as relates to the several Lands in the First District therein described, and for making better Provision for draining and preserving the said Lands*: And whereas the Powers and Provisions of the said Act have been found insufficient for effectually carrying the same into execution, and for draining and  
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preserving the Fen Lands and Low Grounds bounded and described therein, and it is necessary that the said Act should be altered and amended, and the Powers and Provisions thereof enlarged: 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 so much of the said recited Act as enacts that Notice of all Meetings to be holden by virtue of the said recited Act, and all other Notices thereby required to be given, shall, unless thereby otherwise directed, be given in the *Cambridge* and *Bury* weekly Newspapers, or by affixing such Notice or Writing on the principal Doors of the Churches of the respective Parishes of *Ely*, *Littleport*, and *Mildenhall*, or by both such Ways, if the same should be thought requisite, shall be and the same is hereby repealed.

Certain  
Clauses in  
said Act re-  
pealed.

Repealing so  
much of for-  
mer Act as  
relates to  
Trees, &c.  
being planted  
or placed  
near any  
Mill.

II. And be it further enacted, That so much of the said recited Act as enacts that no Tree or Trees, or Holt or Holts, Stack or Stacks of Hay, Fodder, Reed, or Turf, shall at any Time or Times thereafter be planted, nor any Buildings be placed, erected, or built, except as therein mentioned, nearer to any Mill or Engine, made or to be made, erected, or employed for the Purposes of the Acts therein recited and that Act, than Five hundred Yards, nor any Ditch or Drain thereafter to be made or cut above Eight Feet wide at the Top, within Forty Feet of the Centre of any Bank within the said District, and as empowers the said Commissioners to cause such Trees, Holts, and Stacks to be taken up and carried away, and such Buildings to be pulled down and removed, and such Ditch or Drain to be filled up, after the Expiration of the Notice thereby directed to be given, shall be and the same is hereby repealed.

Repealing so  
much of for-  
mer Act as  
relates to  
Cattle stray-  
ing or feed-  
ing on the  
Banks.

III. And be it further enacted, That so much of the said recited Act as enacts that if any Person or Persons shall wilfully suffer his, her, or their Cattle, Stock, or Swine to stray upon or to feed or root up the Soil, or otherwise damage any Bank or Banks made or used, or to be made or used under the Authority of the Acts therein recited, or of that Act; or that if any Person or Persons shall fodder, or cause or permit to be foddered or drove on the Banks to water, any of his, her, or their Cattle or Stock upon any such Bank or Banks, then and in every such Case every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds, shall be and the same is hereby repealed.

Repealing so  
much of for-  
mer Act as  
empowers  
Collectors of  
Tolls to re-  
tain Distress  
till the Toll  
is paid.

IV. And be it further enacted, That so much of the said recited Act as enacts, that if any Dispute shall happen about the Quantity of the Tolls due, or the Charges of keeping and selling any Distress, it shall and may be lawful to and for the Collector or Person distraining, to retain the Distress, or the Money arising from the Sale thereof, until the Quantity of the Tolls or Charges of distraining and selling the Distress, as the Case may be, shall be ascertained by some Justice of the Peace for the County or Place wherein such Dispute shall arise, upon Application made to him for that Purpose, shall examine the said Matter by Oath of the Parties, or other Witness or Witnesses, and shall determine the Quantity of the Tolls due, and shall also assess the Charges of such Distress and Sale, and all other reasonable Costs, all which Sum or Sums so determined or assessed shall be paid the said Collector before he shall be obliged to

return the said Distress, or the Overplus after Sale thereof, or of any Part thereof, shall be and the same is hereby repealed.

V. And be it further enacted, That from and after the passing of this Act, the Fen Lands and Low Grounds bounded and described in the said recited Act, and intended to be drained and preserved under the Powers contained therein, shall be called *Burnt Fen First District*, and that the Commissioners authorized and appointed, and to be authorized and appointed under and by virtue of the said recited Act or this Act, shall be called "The Commissioners for draining the First District of *Burnt Fen Lands*." Name of District.

VI. And be it further enacted, That every Husband, Guardian, Committee or other Trustee, for or on Behalf of any Feme Covert, Infant, Idiot, Lunatic, or other Cestuique Trust, entitled in his or her own Right to One hundred and fifty Acres of Land taxed by virtue of the said recited Act, shall be a Commissioner for putting the said recited Act and this Act in Execution during the Minority of such Infant, or the Coverture, Disability, or Incapacity of such Feme Covert, Idiot, Lunatic, or other Cestuique Trust respectively; and that the Husband, Guardian or Guardians, Committee or Committees, Trustee or Trustees of any Feme Covert, Infant, Idiot, Lunatic, or other Cestuique Trust, entitled in his or her own Right to Three hundred Acres or upwards of Land taxed by virtue of the said recited Act or this Act, shall have the same Power to appoint a Deputy Commissioner or Deputy Commissioners during such Coverture, Minority, Disability or Incapacity, as such Infant, Feme Covert, Idiot, Lunatic, or other Trustee would be entitled to exercise, if he or she were capable to act in the Execution of the said recited Act or of this Act, in his or her own Right: Provided always, that where Two or more Persons shall be appointed Guardians, Trustees, or Committees for the same Infant, Idiot, or Lunatic, One only of such Guardians, Trustees, or Committees, shall be entitled to act at any Meeting as such Commissioner, and that every Appointment of a Deputy for such Guardians, Trustees or Committees, if more than Two, shall be signed by a Majority of them; but if there shall be but Two such Guardians, Trustees, or Committees, then such Appointment of a Deputy shall be signed by both of them. Husband, Guardian, &c. of Feme Covert, Infant, &c., may act as Commissioners, and appoint Deputies.

VII. And be it further enacted, That Two General Meetings of the said Commissioners shall be holden every Year at *Ely* in the Isle of *Ely*; (that is to say), one of them on the last *Thursday* in the Month of *March*, and the other on the First *Thursday* in the Month of *October*; and that it shall be lawful for the said Commissioners to hold all such other Meetings at such other Times and Places as any Seven or more of them shall think necessary, and shall by Notice in Writing under their Hands appoint, whether assembled at a Meeting or not; and the said Commissioners may from Time to Time adjourn any Meeting or Meetings to be holden by virtue of this Act or of the said recited Act, to such Time or Place, and as often as they may think proper; and in case Seven Commissioners shall not be present at the Time and Place appointed for holding any Meeting or adjourned Meeting, then and in every such Case the Commissioners or Commissioner present, or the Clerk to the said Commissioners, (if no Commissioner shall attend) shall and may adjourn the same to a future Day, not exceeding Twenty-one Days from such Adjournment; Meetings of Commissioners.  
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any thing in the said recited Act contained to the contrary thereof notwithstanding.

No Act of Commissioners valid, unless done at some Meeting.

VIII. And be it further enacted, That no Act of the said Commissioners shall be good, valid, or effectual, unless the same be done at some Meeting or adjourned Meeting duly convened, as required by this Act (save and except in Cases where it is otherwise directed or authorized by the said recited Act or this Act); and that all Powers or Authorities granted to or vested in the said Commissioners shall and may from Time to Time be exercised by the major Part of them present at any Meeting or adjourned Meeting (the whole Number present not being less than Seven); and that the Commissioners present at every Meeting or adjourned Meeting shall choose a Chairman, who in case of an Equality of Votes on any Question (including the Vote of such Chairman) shall have the decisive or casting Vote; and that the first Business done at every such Meeting shall be the Election of such Chairman.

Penalty on acting without being qualified.

IX. And be it further enacted, That if any Person not being qualified or properly appointed, as prescribed by the said recited Act or this Act, shall act as a Commissioner in the Execution of the said recited Act or this Act, or if any Person shall appoint any Deputy to act as a Commissioner, without being authorized by the said recited Act or this Act to make such Appointment, every Person offending in either of the Cases aforesaid shall for every such Offence forfeit and pay the Sum of Fifty Pounds, to be recovered with full Costs of Suit by any Person or Persons who shall inform or sue for the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Complaint, or Information; and the Person so prosecuted shall prove that he or she is qualified as aforesaid, or otherwise a Verdict shall be found against him or her, without any other Proof or Evidence on the Part of the Plaintiff or Informer than that such Person has acted as a Commissioner in the Execution of the said recited Act or this Act.

Notices of Meeting and other Notices how to be given.

X. And be it further enacted, That Notices of all Meetings of the said Commissioners (Adjournments from Day to Day only excepted) and all other Notices required to be given by this Act or the said recited Act, or either of them, shall, unless otherwise directed by this Act or the said recited Act, or either of them, be advertised in the Newspapers called *The Cambridge Chronicle and Journal*, and *The Bury and Norwich Post*, or in such other Newspapers as the said Commissioners when assembled at any Meeting shall from Time to Time direct; and that all Notices of Meetings shall be advertised at least Six Days before the Time appointed for holding the same; any thing in the said recited Act contained to the contrary thereof notwithstanding.

Commissioners not to administer Oaths on verifying Accounts.

XI. And be it further enacted, That nothing in the said recited Act shall extend or be construed to extend to authorize or empower the said Commissioners, or any of them, to administer any Oath or Oaths to any Clerk, Treasurer, or Collector of the Tolls, Surveyor or other Officer or Officers now appointed or hereafter to be appointed under or by virtue of the said recited Act and this Act, or either of them, for the Purpose of verifying his or their Accounts; and that so much of the said recited Act as directs the said Accounts to be verified on Oath, and authorizes the

the said Commissioners or any of them, to administer such Oath, shall be and the same is hereby repealed.

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

Treasurer and Clerk not to be the same Person.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time and at all Times hereafter, to continue to repair, amend, maintain, support, and keep in Repair the South Bank of the *Brandon* River from its Junction with the Cross Bank maintained by the said Commissioners at the North-west Corner of *Redmore* Fen to *Lakenheath* Lode, and the Bank along the West Side of the said Lode to its Junction with the Cross Bank leading to the hard Lands of *Undley*, when and as often and in such Manner as they shall see Occasion; and that all the Powers, Authorities, Remedies, Penalties, and Provisions contained in or imposed, given or created by the said recited Act or this Act, or either of them, for the Repair, Maintenance, and Preservation of the Banks within the Bounds and Limits of the said District, shall extend also to the said South Bank of *Brandon* River and the said Bank of *Lakenheath* Lode, and the respective Forelands thereof, as fully and effectually, to all Intents and Purposes whatsoever, as if such Banks and Forelands were situated within the Bounds and Limits of the said District.

Commissioners may repair South-Bank of Brandon River to Lakenheath Lode and the West Bank of Lakenheath Lode.

XIV. And be it further enacted, That the several Taxes authorized by the said recited Act to be assessed and charged by the said Commissioners, shall be assessed and charged by them yearly and every Year, at one of the General Meetings held by them, or at some Adjournment thereof, and that the gradual Acre Tax not exceeding One Shilling and Sixpence *per* Acre, and the gradual Acre Tax not exceeding Three Shillings *per* Acre, authorized by the said recited Act to be assessed by the

Taxes how to be assessed.

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said

said Commissioners upon the Fen Lands and Low Grounds within the Boundaries and Limits of the said District, shall hereafter be assessed, rated, and charged in manner prescribed by the said recited Act, according to the Rates and Valuations thereof made by the Surveyors authorized and appointed under an Act passed in the Thirty-seventh Year of the Reign of His said late Majesty to survey and value the said Lands and Grounds, save and except that it shall be lawful for the said Commissioners, when assembled for the Purpose of assessing such Taxes, to correct any Errors or Inequalities in such Rates and Valuations, and to make such Alterations therein from Time to Time as they may see necessary for the Purpose of making the same just and equitable: Provided always, that no Commissioner shall be allowed to be present at any Meeting during the Discussion of any proposed Alteration in the Assessment of the Taxes for any Lands belonging to him or in his Occupation, or in respect of which he shall be appointed a Commissioner, or to vote on any such proposed Alteration of the Taxes for such Lands; nor shall any Commissioner, being the Father, Son, Brother, Uncle, or Nephew of such Commissioner, be allowed to be present at such Discussion, or to vote on such Alteration, nor shall any Deputy Commissioner be allowed to be present at the Discussion of any proposed Alteration in the Assessment of the Taxes for any Lands belonging to the Person by whom or for whose Lands he may be appointed a Commissioner, or to vote on any such proposed Alteration; and also, that no Alteration shall at any Time be made in such Rates and Valuations, unless the Majority of the Commissioners concurring therein shall amount to Seven.

In rating  
Lands to  
parochial  
Assessments,  
Allowance to  
be made for  
Taxes.

XV. And whereas before the Fen Lands and Low Grounds comprized within the said District were drained by the Commissioners thereof, the same were of small Value, and yielded little or no Profit to the Proprietors thereof, or to the Public; and their Cultivation entirely depends upon the large Sums of Money continually expended on the Banks and Works erected and maintained for the Preservation thereof, which Sums can only be raised by charging the said Lands and Grounds exclusively with heavy Taxes, annually levied thereon under the Authority of Parliament: And whereas, notwithstanding such heavy Taxes, the Churchwardens and Overseers of the Poor of some of the said Parishes wherein the said Lands and Grounds do lie have claimed to assess the same at the full Value thereof, without any Regard to the said Taxes; be it therefore further enacted, That in all future parochial and other Assessments of the said Fen Lands and Low Grounds, the same shall be rated and assessed only according to the annual Value thereof, after deducting therefrom the Amount of any Taxes imposed or to be imposed thereon, for the Purpose of draining and improving the same, under and by virtue of any Act or Acts of Parliament.

Additional  
Tolls.

XVI. And whereas the Tolls made payable by the said recited Act for Horses or other Cattle haling Boats, Barges, and other Vessels on the Banks hereafter mentioned, have been found inadequate to the Expence of repairing the Damages done to the said Banks by such Horses and other Cattle; be it therefore enacted, That it shall be lawful for the said Commissioners, and they are hereby empowered to demand, receive, and take, and to cause to be demanded, received, and taken, by their Collector or Collectors, at any Toll Bar or Toll Chain already erected or

hereafter

hereafter to be erected, under or by virtue of the said recited Act or this Act, upon such Parts of the North Bank of the *Mildenhall* River, the South Bank of the *Brandon* River, from *Brandon Creek* Bridge to *Lakenheath* Lode, and the West Bank of *Lakenheath* Lode, as are or shall be supported and maintained by the said Commissioners over and above the Tolls granted and payable under or by virtue of the said recited Act, the following Tolls, before any such Horse or other Cattle shall be permitted to pass by or through such Toll Bar or Toll Chain; (that is to say),

For every Horse or other Beast, haling any Boat, Barge, or other Vessel, Tolls.  
the Sum of Nine-pence :

Which said Tolls shall and may be taken and collected at the Toll Bars or Toll Chains appointed or to be appointed for the Collection of the Tolls granted by the said recited Act, or at any separate Toll Bars or Toll Chains erected on any Part of the said Banks, as the said Commissioners may think proper, and shall be vested in the said Commissioners, and shall be applied towards the better and more effectual Support and Improvement of the Banks, Engines, and other Works made or maintained by the said Commissioners.

XVII. Provided always, and be it further enacted, That nothing herein contained shall extend to authorize the said Commissioners at any Time to demand, receive, or take any Tolls upon any or either of the said Banks when such Bank or Banks shall not be under the Care, Maintenance, and Preservation of the said Commissioners: Provided also, that nothing in the said recited Act contained shall be construed to extend to empower the said Commissioners to take Tolls from any Person or Persons travelling from *Mildenhall Drove* across the Cross Bank adjoining the same. Tolls not to be taken in certain Cases.

XVIII. And be it further enacted, That if any Person shall, with any Horse, Beast, or other Cattle, go off or pass from any of the Banks made or maintained or to be made or maintained by the said Commissioners, through or over any Land or Ground near or adjoining to any such Bank, with Intent to evade the Payment of any of the Tolls granted by the said recited Act and this Act, or either of them; or if any Owner or Occupier of any such Land or Ground shall knowingly or willingly permit or suffer any Person with any Horse, Beast, or other Cattle, to go or pass through or over the same, with Intent to evade the Payment of any such Tolls; or if any Person or Persons shall take off, or cause to be taken off, any Horse or other Beast from any Boat, Barge, or other Vessel, whereby the Payment of the said Tolls, or any Part thereof, shall be avoided, or after having passed through or beyond any such Toll Bar or Toll Chain, shall use any Horse or other Beast, or put the same to any Boat, Barge, or other Vessel, for the Purpose of haling the same, not having paid the Toll or Tolls due and payable for such Horse or other Beast; or shall pass by, through, or over any such Toll Bar or Toll Chain with any Horse, Beast, or Cattle, without having paid the Toll or Tolls due and payable for the same; every such Person so offending in any of the Cases aforesaid shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, One Moiety whereof shall go to the Informer, Penalty on evading Tolls.

former, and the other shall be applied to the Purposes of the said recited Act and of this Act.

Power to  
reduce Tolls.

XIX. And be it further enacted, That it shall be lawful for the said Commissioners, at any General Meeting to be holden by them under the said recited Act and this Act, or at any Adjournment thereof, from Time to Time to lessen and reduce all or any of the Tolls granted by this Act, for and during such Time as the said Commissioners shall think proper; and afterwards, at any other General Meeting, or Adjournment thereof, from Time to Time, as they shall see Occasion, to advance all or any of such Tolls so lessened or reduced, to any Sum or Sums of Money not exceeding the Tolls granted by the said recited Act and this Act: Provided always, that when the whole Money secured or borrowed on the Credit of the said Tolls, shall not have been paid off and discharged, none of the said Tolls shall be lessened or reduced without the Consent of the Person or Persons entitled to Five-sixths of the Money remaining due on such Tolls.

Power to  
farm Tolls.

XX. And be it further enacted, That it shall be lawful for the said Commissioners, at any Meeting to be holden under the said recited Act and this Act, from Time to Time to let to farm all or any Part of the Tolls granted by the said recited Act and this Act, for such Term or Terms, not exceeding Three Years, as they may think fit, for the best Rent or Rents that can be gotten for the same, either by public Auction or private Contract, and under such Covenants and Conditions as they the said Commissioners, or any Seven or more of them when assembled at such Meeting, shall think fit; and that Notice of the Meeting for letting such Tolls shall in all Cases be given at least Fourteen Days before the said Meeting, by advertising the same in like Manner as herein provided with respect to advertising the other Meetings of the said Commissioners.

For settling  
Disputes  
concerning  
Tolls.

XXI. And be it further enacted, That if any Dispute shall happen about the Amount due for any of the Tolls granted by the said recited Act or this Act, or the Charges of making, keeping, or selling any Distress, it shall be lawful for the Collector or Person so distraining to retain such Distress, or the Money arising from the Sale thereof (as the Case may happen), until the Amount of the Tolls due, or the Charges of the Distress and Sale, and of keeping the Distress (as the Case may happen), be ascertained by any Two or more Justices of the Peace for the County, Liberty, or Place wherein the Cause of Dispute shall arise, who, upon Application made to them for that Purpose, shall examine the Matter by Oath of the Parties, or other Witness or Witnesses, and determine the Amount of the Tolls due, and shall make such Order, and award such Costs and Charges to either Party as to the said Justices shall appear right and proper; all which Costs and Charges shall and may be levied and recovered in case of Nonpayment thereof forthwith, by Warrant under the Hands and Seals of such Justices, by Distress and Sale of the Goods and Chattels of the Person or Persons liable to pay the same, rendering the Overplus (if any) on Demand, after deducting the Costs and Charges of making such Distress and Sale, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

XXII. And



XXII. And be it further enacted, That every Toll Collector appointed either by the said Commissioners, or by any Lessee or Lessees under them, to collect the Tolls payable by virtue of the said recited Act or this Act, shall and he is hereby required to place his Christian and Surname painted on a Board in legible Characters in the Front, or some other conspicuous Part of the Toll House immediately on his coming on Duty; each of the Letters of such Names to be at least Two Inches in Length, and of a Breadth in Proportion, and painted either in White Letters on a Black Ground, or Black Letters on a White Ground, and shall continue the same so placed during the whole Time he shall be upon such Duty; and if any Collector of the said Tolls shall not place such Board as aforesaid, and keep the same there during the Time aforesaid, or shall wilfully demand or take a greater or less Toll from any Person or Persons than he shall be authorized to do by virtue of the said recited Act or this Act, or shall demand or take a Toll from any Person or Persons who shall be exempt from the Payment thereof, and who shall claim such Exemption, or shall refuse to permit or suffer to be read, or shall in anywise hinder any Person or Persons from reading such Christian and Surname, or shall refuse to tell his Christian or Surname to any Person or Persons who shall demand the same, on having paid the said Tolls, or shall give a false Name or Names on such Demand, or shall refuse to give a Ticket denoting the Payment of the Toll, and specifying the Name of the Gate, Chain, or Bank on or at which such Payment shall have been made, and also the Names of the several Gates or Chains freed by such Payment, or shall make use of any scurrilous or blasphemous Language to any Person or Persons travelling upon the said Banks; or shall, without a sufficient Cause, detain or delay any Person or Persons travelling thereon; then and in every such Case every such Collector shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence, as the Justice or Justices before whom the Information shall be laid shall adjudge.

Toll Collectors to put up their Names.

XXIII. And whereas many Persons have placed Tunnels through the Banks made or maintained by the said Commissioners, for the Purpose of letting Water into their Lands, or of making Waterways to Mills or Engines used for the Drainage of such Lands: And whereas the Security of the said Banks in Times of Flood may be much endangered, if Provision be not made to compel the Owners or Occupiers of the last-mentioned Lands to keep such Tunnels in Repair, and to make the same of proper Length and Dimensions; be it therefore enacted, That in case any such Tunnel shall at any Time hereafter, in the Opinion of the Superintendent of the Works of the said Commissioners, be out of Repair, or shall not be of sufficient Length and Dimensions to prevent Damage to the Bank through which the same may be placed, and in case the Owner or Occupier of the Lands adjoining any such Tunnel shall neglect or refuse to put such Tunnel into good and sufficient Repair, and to make the same of sufficient Length and Dimensions, to the Satisfaction of the said Superintendent, within Twenty-one Days after Notice in Writing for that Purpose shall have been given by the said Superintendent, or by the Clerk of the said Commissioners, to such Owner or Occupier, or left at the usual Place of Abode of such Owner or Occupier, or at any Dwelling House used by such Owner or Occupier, or his Steward or Bailiff upon the said Lands, or if any such Owner or Occupier, in repairing or

For protecting Banks from Injury through Tunnels.

lengthening any such Tunnel, shall do any Damage to the said Bank, then and in every such Case such Owner or Occupier shall forfeit and pay to the said Commissioners, for every such Neglect or Refusal and Damage, any Sum not exceeding Fifty Pounds; and it shall be lawful for the said Superintendent of the said Commissioners, at his Option, either to repair such Tunnel and Damage, and to cause such Tunnel to be made of sufficient Width and Dimensions, or otherwise wholly to stop up the said Tunnel, and to protect the said Bank against the same in any Way he may think proper; and the Penalty or Forfeiture so incurred by such Owner or Occupier, and the Costs, Charges, and Expences, as well of repairing and altering the said Tunnel, as of stopping up the same, and repairing and protecting the said Bank, such Costs, Charges, and Expences being first ascertained and determined by One or more Justice or Justices of the Peace for the County, Liberty, or Place wherein the Offence shall have been committed, shall and may be levied and recovered in manner herein-after provided with respect to Penalties, Forfeitures, and Fines imposed by this or the said recited Act; and all such Penalties shall be applied for the Purposes of the said recited Act and of this Act: Provided always, that if there shall at any Time be immediate Danger of a Breach of Bank, through the Deficiency of any Tunnel placed therein, it shall be lawful for the said Superintendent forthwith to stop up or repair the said Tunnel and protect the said Bank, without giving any Notice to the Person or Persons liable to repair such Tunnel; and the Costs, Charges, and Expences occasioned thereby shall and may be levied and recovered from the Owner of such Tunnel, or the Occupier of the Lands adjoining the same, in like Manner as if Notice to the Effect herein-before mentioned had been given to such Owner or Occupier; but nothing herein or in the said recited Act contained shall extend or be construed to extend to authorize any Person or Persons to place any Tunnel or Tunnels in any other Place or Places in the said Banks than those in which Tunnels are now placed, or to cut any of the said Banks for any Purpose whatever, without obtaining the Consent of the said Commissioners at a Meeting regularly convened under the said recited Act and this Act: Provided further, that all such Tunnels as belong to the said Commissioners, and are used by them, shall continue to be repaired by the said Commissioners, and to be under the exclusive Controul and Management of their Superintendent: Provided also, that it shall be lawful for the said Superintendent from Time to Time, as he may see Occasion, for the general Benefit of the Proprietors and Occupiers of Land in the District, to shut up and close any private or public Tunnels used for the Purpose of running Water into any Part of the said District, and also to open such Tunnels, and to run the Water through the same, as often and as long as he may deem necessary.

Penalties on  
injuring or  
damaging  
Banks.

XXIV. And whereas much Injury has been sometimes done to the Banks maintained by the said Commissioners, and to the Forelands thereof, by Persons driving Cattle thereon, and by other means; be it therefore enacted, That if any Occupier of Lands or Grounds within the said District, or any other Person or Persons, shall drive or cause to be driven along either of the said Banks or the Forelands thereof, any Cattle, Stock, or Swine, either to or from Pasture in the said Lands or Grounds, or on any other Account whatsoever, and shall thereby do any Injury or Damage to any such Bank or Forelands, or shall suffer his, her, or their Cattle,  
Stock,

Stock, or Swine to stray upon any such Bank or Forelands, or to feed, or root up the Soil thereof, or in any other Manner to damage the same, or shall fodder or cause or permit to be foddered any Cattle or Stock upon any such Bank or Forelands, or shall drive or cause to be driven any Waggon, Cart, or Carriage upon, over, or across any such Bank, or shall drive any Cattle or Stock to water across any such Bank, then and in every of the said Cases every such Person so offending shall, upon Complaint made by the Order of the said Commissioners when assembled at any Meeting, before any Justice of the Peace for the County, Liberty, or Place where the Offence may be committed, forfeit and pay for every such Offence any Sum not exceeding Ten Pounds; but nothing herein contained shall extend or be construed to extend to restrain or prevent any Person or Persons entitled to the Herbage of any such Bank or Foreland from feeding the same with Sheep or Lambs, or with Calves not being more than One Year old.

XXV. And be it further enacted, That if any Person or Persons shall set or make use of any Net, Grig, or other Instrument for catching Fish, or for any other Purpose whatsoever, in or against any Division, Dike, or Ditch, or any Drain or Tunnel within the said District, or shall make, erect, or continue any Dam, Heading, Staunch or Sluice, in any Division or other Dike or Ditch, Drain or Tunnel, or shall do any Act whatever whereby the free Passage of the Water through such Division or other Dike or Ditch, Drain or Tunnel, shall or may in any respect be impeded or obstructed, or if any Person or Persons shall at any Time make, erect, or continue any Bridge over any of the Drains within the said District, unless the same shall be raised at least Eighteen Inches above the Surface and Level of the Land adjoining; every Person offending in any of the Cases aforesaid shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Penalties on setting Nets, &c., or obstructing the Passage of the Waters in Ditches, Drains, &c.

XXVI. And be it further enacted, That if any Person or Persons shall at any Time hereafter make, cut, or scour out, or cause to be made, cut, or scoured out, any Ditch or Drain above Two Feet in width or Two Feet in depth, within the Distance of Forty Feet from the Centre of either of the said Banks, without the Order or Permission of the said Commissioners, made or given when assembled at any of their Meetings under the said recited Act or this Act, or shall plant any Tree or Holt, or place any Stack or erect any Building within the Distance of Three hundred Yards from any Mill or Engine belonging to or used by the said Commissioners, without having obtained such Order or Permission as aforesaid, every Person so offending shall, upon Complaint made by Order of the said Commissioners when assembled at any Meeting, for every such Offence, forfeit and pay any Sum not exceeding Ten Pounds; and it shall be lawful for the said Commissioners, or their Superintendent or Workmen, to fill up every such Ditch or Drain, and to cut down such Tree or Holt, and to pull down and remove every such Stack or Building, notwithstanding the Offender may have paid the Penalty hereby imposed.

Restriction as to cutting Ditches near Banks, or placing Buildings, &c. near Mills.

XXVII. And be it further enacted, That it shall be lawful for the Superintendent of the said Commissioners, and for all Millwrights, Labourers, and Workmen, when employed by him in doing the Works of the said Commissioners, from Time to Time, as Occasion shall require,

Power to Officers to pass over the Lands of the District, to when in the

Service of the  
Commiss-  
sioners, &c.

to enter upon and pass on Foot through, over, or across any of the Lands or Grounds within the said District, except when such Lands or Grounds shall be in cropping: Provided always, that if any wilful Damage shall at any Time be done by such Superintendent, Millwright, Labourers, or Workmen, on such Occasions, he, she, or they shall be liable to be proceeded against under any Laws which may be in force for punishing wilful Trespasses.

Limitation of  
Actions.

XXVIII. And be it further enacted, That no Action or Suit shall be brought or commenced by any Person or Persons for any thing done by virtue of the said recited Act or this Act, till after Fourteen clear Days Notice thereof in Writing shall be given to the Person or Persons against whom such Action or Suit shall be intended to be so brought or commenced; thereby fully setting forth the Cause of such Action or Suit, or the Nature thereof, or left at his or their last or usual Place of Abode; and that every Action or Suit commenced or brought for any thing done as aforesaid, shall be brought within the Space of Three Calendar Months next after the Cause thereof shall arise; and shall be laid and tried in the County where the Cause of Action shall have arisen, and not elsewhere; and the Defendant or Defendants therein may plead the General Issue, and give this Act, or the said recited Act and the special Matter in Evidence, and that the same was done by virtue thereof; and if on the Trial of such Action, it shall appear that the same was brought before the Expiration of Fourteen Days next after such Notice shall have been so given or left as aforesaid, or after the End of Three Calendar Months next after the Cause thereof shall have arisen; or if such Action shall be brought or laid in any other County than as aforesaid, or if after sufficient Tender of Amends shall have been made to the Party or Parties aggrieved, then and in every of the Cases aforesaid, the Jury, on the Trial of such Action, shall find for the Defendant or Defendants therein; and in all Cases where any Verdict shall be found for any Defendant or Defendants in such Action, or the Plaintiff or Plaintiffs therein shall discontinue the same after the Defendant or Defendants shall have appeared thereto, or shall be nonsuited, or if upon Demurrer, Judgment shall be given against such Plaintiff or Plaintiffs, the Defendant or Defendants in such Action shall have Treble Costs, and shall also have the like Remedies for recovering the same as Defendants have for recovering their Costs in other Cases by Law; any thing in the said recited Act to the contrary thereof in anywise notwithstanding.

General  
Issue.

Treble Costs.

Recovery  
and Applic-  
tion of Pena-  
ties.

XXIX. And be it further enacted, That all Penalties, Forfeitures, and <sup>ca</sup> hereby or by the said recited Act inflicted or authorized to be <sup>im</sup>posed, the Manner of levying and recovery whereof is not therein or herein otherwise directed, shall, upon Proof of the Offences respectively before any One Justice of the Peace for the County, Liberty, or Place where such Offence shall be committed (as the Case may be), either by the Confession of the Party or Parties offending, or by the Oath of One or more Witness or Witnesses, (which Oath such Justice is hereby empowered and required to administer), be levied by Distress and Sale of the Goods and Chattels of the Party or Parties offending, by Warrant or Warrants under the Hand and Seal of such Justice (which Warrant or Warrants such Justice is hereby empowered to grant for those Purposes), and the Overplus, after such Penalties, Forfeitures and Fines, and the Charges of  
and

and previous to such Distress and Sale, are recovered and deducted, shall be returned upon Demand unto the Owner or Owners of such Goods and Chattels; and the Penalties, Forfeitures, and Fines, when paid or recovered, shall be (if not otherwise directed to be applied by this Act or the said recited Act) paid, One Half to the Informer, and the other Half to the said Commissioners or to their Clerk or Treasurer, to be applied for the Purposes of the said recited Act and this Act; and in case such Penalties, Forfeitures, or Fines shall not be forthwith paid upon Conviction, it shall be lawful for such Justice, and he is hereby authorized and required to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can conveniently be made to such Warrant of Distress, unless the Offender or Offenders shall give sufficient Security, to the Satisfaction of such Justice, for his, her, or their Appearance before such Justice, on such Day or Days as shall be appointed for the Return of such Warrant of Distress, such Day or Days not being more than Ten Days from the Time of taking any Security, and which Security the said Justice is empowered to take by Way of Recognizance or otherwise; but if upon Return of such Warrant, it shall appear that no sufficient Distress can be had thereupon, then and in such Case it shall be lawful for such Justice of the Peace as aforesaid, or any other Justice of the Peace for the County, Liberty, or Place where the Offence shall have been committed, and he is hereby authorized and required, by Warrant or Warrants, under his Hand and Seal, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction of the County, Liberty, or Place where the Offence shall have been committed, there to remain without Bail or Mainprize, for any Time not exceeding Six Calendar Months, unless such Penalties, Forfeitures, and Fines, and all reasonable Charges, shall be sooner paid and satisfied.

XXX. And whereas Offences may be committed against the said recited Act or this Act, by Persons unknown to the Superintendent or other Officers of the said Commissioners; be it therefore enacted, That it shall be lawful for such Superintendent or any of the said Officers, and such other Person or Persons as he or they shall call to his or their Assistance, without any Warrant or other Authority than this Act, to seize and detain any such unknown Person or Persons who shall commit any such Offence and Offences, and take him, her, or them, as soon as practicable, before any Justice of the Peace of the County, Liberty, or Place where the Offence shall have been committed, and such Justice is hereby empowered and directed to proceed with all convenient Speed to the hearing and determining of the said Complaint.

For securing transient Offenders.

XXXI. And be it further enacted, That it shall be lawful for such Superintendent or Officer to seize every Bullock, Cow, Horse, Ass, Swine, or other Live Stock or Cattle of any Person unknown to the said Superintendent or other Officers, which may be found damaging or injuring the Banks maintained by the said Commissioners, or the Forelands thereof, and to impound the same in the Common Pound (if any) of the Hamlet, Township, Parish, or Place in which the same shall be found, or in such other Place or Places as any of the said Commissioners or the said Superintendent or other Officers shall think fit, and the same there to detain until the Owner or Owners thereof shall for every such Bullock,

For impounding Cattle straying or damaging the Banks.

[Local.]

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Cow,

Cow, Horse, Ass, Swine, or other Live Stock or Cattle so impounded, pay the Sum of Five Shillings for the First Time, and Ten Shillings for the Second and every other Time such Owner or Owners shall have any Bullock, Cow, Horse, Ass, Swine, or other Live Stock or Cattle so impounded, and the said Sum of Ten Shillings or Five Shillings (as the Case may be) shall be paid to the said Commissioners, together with the reasonable Charges and Expences of impounding and keeping the same; and in case the said Penalty, Charges, and Expences shall not be paid within Three Days next after such impounding, it shall be lawful for any One or more Justice or Justices of the Peace for the County, Liberty, or Place where the Offences shall have been committed, by any Order under his or their Hand or Hands, to sell or cause every such Bullock, Cow, Horse, Ass, Swine, or other Live Stock or Cattle to be sold, and the Money arising from such Sale, after deducting the said Penalty, and the Charges and Expences of impounding, keeping, and selling every such Bullock, Cow, Horse, Ass, Swine, or other Live Stock or Cattle, shall be paid to the Person to whom the Property so sold shall appear to belong.

Expences of Act to be defrayed.

XXXII. And be it further enacted, That the Expences of obtaining and passing this Act shall be paid and satisfied by the said Commissioners out of the first Monies raised or received by them by virtue of the said recited Act or this Act, or either of them.

The Powers of former Act to extend to this Act.

XXXIII. And be it further enacted, That all the Powers, Provisions, Remedies, Penalties, Exemptions, Matters, and Things contained in the said recited Act, shall extend and be deemed, construed, and taken to extend to this Act, in as full, large, and ample a Manner, to all Intents, Constructions, and Purposes whatsoever, as if the same respectively were repeated and re-enacted in the Body of this Act, save and except where the same are or any Part thereof is varied, altered, or repealed.

Rights of Bedford Level Corporation reserved.

XXXIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, lessen, or diminish, alter, or take away, any of the Rights, Powers, and Authorities vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or in the said Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, by virtue of an Act of Parliament, made and passed in the Fifteenth Year of the Reign of King *Charles* the Second, intituled, *An Act for settling the Drainage of the Great Level of the Fens called Bedford Level*, or by any other Act, Statute, or Charter, Law of Sewers, or otherwise howsoever; but that all Rights, Powers, and Authorities, which are now vested in the said Governor, Bailiffs, and Commonalty, or in the said Governor, Bailiffs, and Conservators, and in every or any of them, shall for ever hereafter remain, continue, and be in the said Governor, Bailiffs, and Commonalty, and in the said Governor, Bailiffs, and Conservators, and every of them, as fully and amply, to all Intents and Purposes, as if this Act had not been made.

No Materials to be taken from Middle

XXXV. Provided always, and be it further enacted, That nothing in the said recited Act contained shall extend to empower the said Commissioners to take any Materials for the Repair of the Banks maintained by the said Com-

Commissioners, from any Lands lying within the Bounds of the Districts called *Feltwell* and *Middle Fen Districts*, or either of them, or from any of the Banks or Forelands adjoining such Districts respectively. Fen and Feltwell Districts.

XXXVI. 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. Public Act.

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