

offence forfeit and pay the sum of Ten Pounds, to be levied by distress and sale of the offender's goods and chattles, by warrant under the hands and seals of such Justices, and for want of sufficient distress, such offender or offenders shall, by warrant under the hands and seals of such Justices, be committed to the House of Correction, there to be kept to hard labour for any time not exceeding Three calendar months, nor less than Seven days; or until such penalty shall be paid.

And be it further Enacted, That if any person not authorized so to do shall drive any wain waggon cart or other carriage, on over or across any of the banks cefs or forelands and backlands, to be maintained by virtue of the said recited Act or this Act, unless with the consent of the said Trustees, or shall break down damage or destroy any gate post rail or fence maintained as aforesaid, or shall pull down, deface, obliterate or destroy any board containing any bye-law order or constitution, to be made under the authority of this Act, every such person shall for every such offence forfeit and pay any sum not exceeding Ten Pounds, nor less than Twenty Shillings.

Penalty on driving Carriages on the Banks or damaging Works.

And be it further Enacted, That when and so soon as the several works hereinafter directed to be made for improving the Drainage of the said lands and grounds shall have been completed, it shall and may be lawful to and for the said Trustees for the time being, and they are hereby authorized and empowered from time to time to license the using of the banks and back lands of the said North Drove Drain, and of the said South Drove Drain, or either of them, as private bridle and drift ways to the several farms and lands adjoining the banks of the said drains respectively, subject nevertheless to such conditions restrictions and power of revocation, as to them the said Trustees shall seem proper and expedient.

Banks may be used as Bridle and Drift Ways to the Farms.

AND whereas it is expedient to make further regulations for the preservation of the said works of Drainage, 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 banks of the said drains or the said river Welland, vested in the said Trustees, to the nearest common pound or fold to where such horse or horses, swine or cattle (except sheep) shall be found, and the pinder 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,

Banks not to be stocked otherwise than with Sheep.

and the same shall not be repleviable, but shall remain in the custody of the pinder or fold-keeper for the time being, until he shall have been paid for each and every of such horses or other cattle so impounded, any sum not exceeding Twenty Shillings, nor less than One Shilling, subject to the approbation of any Two or more Justices of the Peace of the county division or place where the offence shall have been committed, 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 Ten days after the time of distraining such horse or horses, swine or cattle, it shall be lawful for any Two or more Justices of the Peace of the county division or place where the offence shall have been committed, to sell or cause to be sold, the distress so impounded by auction, at the market town nearest to such common pound, on some market day between the hours of Twelve at noon and Three 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 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 superintendent, to be by him returned and paid to the owner or owners of the horse or horses, swine or cattle so impounded, on demand.

Trustees to sue and be sued in the name of their Clerk.

Suits not to abate by changes.

And be it further Enacted, That the said Trustees 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 recited 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 Trustees, or by reason of the death or removal of their Clerk, or by the act of such Clerk, without the consent of the said Trustees; but the proceedings in any 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.

Prohibiting the same Person from acting as Clerk and Treasurer.

Provided always, and be it further Enacted, That it shall not be lawful for the said Trustees to continue or appoint the person or persons who has 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

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 Trustees; 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 Trustees other than that of treasurer, every 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 essoin protection or wager of law, nor more than one imparlance shall be allowed.

And be it further Enacted, That in case any action or prosecution shall be commenced or prosecuted in pursuance of this Act, under the authority or by the direction of the said Trustees, or any of them, then and in every such case the said Trustees shall, out of the monies arising by virtue of the said recited Act or this Act, allow and pay to the prosecutor, or such person or persons in whose name or names such action or prosecution shall be commenced or prosecuted, all such reasonable costs and charges as such person or persons shall be really and *bona fide* out of pocket, for or by reason of such action or prosecution, or any judgment or determination therein, and likewise indemnify all such persons as shall be prosecuted, or have any action or actions brought against them, for or by reason of any thing done in pursuance of the said recited Act or this Act, under the authority and by the direction of the said Trustees.

Trustees
may pay the
Expences of
Prosecutions.

And be it further Enacted, That in any action or suit hereinafter to be brought by or against the said Trustees, or their Clerk for the time being, or any of the persons acting in the execution of the said recited Act or this Act, for any cause matter or thing arising out of the same Acts, or either of them, the appointments of Trustees, Clerk, Treasurers, Collectors or other officers, or persons appointed or to be appointed by the said Trustees for the time being, under the authority of the said recited Act or this Act, the

The Ap-
pointments
and other
Matters of
Form to
stand
admitted in
Evidence,
unless
Notice given
to produce
them.

books of entries of the proceedings of the said Trustees for the time being, the rates or assessments made or to be made by the said Trustees 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, 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 the
Property to
belong to the
Trustees.

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

the time being acting under the said recited Act or this Act, it shall be sufficient to state that all and every such articles materials and things is or are the property of "the Trustees of the Deeping Fen General Works of Drainage," without particularly stating or specifying all and every the names and name of the said Trustees for the time being.

And be it further Enacted, That all penalties forfeitures and fines, by this Act or by any bye-law rule or order to be made by virtue of this Act as aforesaid, inflicted or authorized to be imposed (the manner of levying recovering and applying whereof is not herein otherwise directed) shall, upon proof of the offences respectively before any Two or more Justices of the Peace for the county liberty or place where the offence shall have been committed (as the case may require) either by the confession of the party offending, or by the oath of any credible witness or witnesses (which oath such Justices are in every case hereby fully authorized to administer) be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hands and seals of such Justices (which warrant such Justices are hereby empowered and required to grant) and the overplus (any) after such penalties forfeitures and fines, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and in case such fines penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such Justices to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security to the satisfaction of such Justices, for his or their appearance before such Justices, 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 Five days from the time of taking any such security, and which security the said Justices are hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such Justices of the Peace as aforesaid, and they are hereby authorized and required by warrant or warrants under their hands and seals, 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 offender shall be or reside, there to remain without bail or mainprize for any time not exceeding Six calendar months, unless such

64.

G

penalties

Recovery of Penalties and Forfeitures.

**If Penalties,
&c. cannot
be levied, the
Offenders to
be committed
for any time
not exceeding
Six Months.**

penalties forfeitures and fines, and all reasonable charges attending the same, shall be sooner paid and satisfied, and the monies arising by such penalties forfeitures and fines respectively, when paid or levied, if not otherwise directed to be applied by this Act, shall be from time to time paid to the Treasurer or Treasurers to the said Trustees, and applied and disposed of for the purposes of this Act.

Persons interested not on that account incompetent Witnesses.

And be it further Enacted, That in all actions, prosecutions, informations, causes and proceedings whatsoever, relating to or concerning the execution of the said recited Act or this Act, no owner or occupier or other person interested in the 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.

Power to give In- formers part of Penalties.

Provided always, and be it further Enacted, That it shall be lawful for the said Trustees for the time being, whenever they shall see cause, to direct any part of 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.

And be it further Enacted, That in all cafes where any conviction fhall be had for any offence or offences committed againft the provifions of the faid recited Act or this Act, or againft any order of feffions, or any other matter or thing done in the execution of the faid recited Act or this Act, the form of conviction may be in the words or to the effect following; (that is to fay),

Form of
Conviction.

" BE it Remembered, that on this day
 " of in the year of our Lord
 " is convicted before
 " Majesty's Justices of the peace
 " for the of having [*as the offence shall be*]
 " and We, the said do
 " adjudge him [her or them] to forfeit and pay for the same
 " the sum of Given under
 " our hands and seals the day and year aforesaid."

Proceedings
not to be
quashed for
want of
Form.

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 recited Act or this Act

Act, or any other matter or thing done in the execution of the said recited Act or this Act, shall be quashed or vacated for want of form only.

And be it further Enacted, That when any distress shall be made in pursuance of the said recited Act or this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in 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.

Distress not
unlawful for
want of
Form.

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 execution or pursuance of the said recited Act or this Act (other than in an action of replevin) 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, Twenty-one 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.

Plaintiff or
plaintiffs to
recover
after tender
of Damages.

And

Persons
aggrieved
may appeal
to the Quar-
ter Sessions.

And be it further Enacted, That if any person or persons shall think himself or herself aggrieved by any thing done by virtue or in pursuance of this Act (except in such cases where the final determination is directed by this Act) and for which no particular method of relief hath been hereby appointed, such person may appeal to the Justices of the Peace at any general or quarter sessions of the peace to be holden for the parts of *Kesteven* and *Holland*, within Six calendar months after such cause of complaint shall have arisen, the person appealing first giving or causing to be given Thirty days notice in writing of his or her intention to bring such appeal, and of the cause or matter thereof, to the Respondent or Respondents, or to the clerk to the said Trustees, in case such appeal should be against any act or determination of the said Trustees, and within Ten days after such notice entering into a recognizance before some Justice of the Peace for the said parts of *Kesteven* and *Holland*, with Two sufficient sureties conditioned to try such appeal, and to abide the order of and to pay such costs as shall be awarded by the Justices at such general or quarter sessions; and the said Justices at the said quarter sessions, upon due proof of such notice having been given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of every such appeal in a summary way, and award such costs to the party appealing or appealed against as the said Justices shall think proper, and the determination of the said Justices in their said quarter sessions, shall be binding and conclusive to all intents and purposes.

Limitation
of Actions.

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 execution or pursuance of the said recited 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 where the cause of action shall have arisen, 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 hereinbefore 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 recited Act or this Act, or that such action or suit shall have been brought before Twenty-one 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

any other county than as aforesaid, 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.

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 the said Trustees for the time being under the authority of this Act.

Money advanced for obtaining this Act to be repaid with interest.

And be it further Enacted, That the said recited Act of the forty-first year of the reign of his late Majesty King George the Third, and all and every the powers, authorities, provisions, regulations, clauses, articles, matters and things therein contained, and now in force (save and except such part and parts thereof as is and are 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 good valid and effectual to all intents and purposes whatsoever, for carrying the said recited Act and this Act into execution, as if the same had been repeated and re-enacted in the body of this Act.

Provisions of the recited Act to extend to this Act.

Provided always, and be it further Enacted, That nothing in this Act contained shall extend or be deemed taken or construed to extend to charge or render liable to any rate tax or assessment respectively, for the purposes of the said recited Act or this Act, the lands and grounds in the parishes of Bourn and Thurlby, adjoining or lying contiguous to the north bank of the river Glen.

Lands lying North of the Glen not to be taxed.

AND whereas by the said recited Act it is enacted, That the lands and grounds to be divided under the authority of the same Act, should be set out in such number of districts, for the better internal Drainage thereof, and that the interior works of Drainage therein should be vested in such number of Trustees respectively as the said Commissioners should by their award declare to be necessary

cessary for preserving and maintaining the same: AND whereas the said lands and grounds, divided under the authority of the said recited Act, are by the award of the said Commissioners set out in Six districts, and Three Trustees for each district are also declared by the same award to be necessary, for maintaining and preserving the interior works of Drainage in the said respective districts: AND whereas by the said recited Act, the several powers and authorities thereby given to the Trustees for General Works are extended to the Trustees for the districts, and it is necessary to extend in like manner the powers hereinbefore given to the Trustees for General Works to the Trustees for Districts, and to enable the last mentioned Trustees to make such works for the better Drainage of the districts, as are hereinafter mentioned; BE it therefore further Enacted, That it shall and may be lawful for the Trustees for such districts, with the consent and approbation of the owners or proprietors of three parts in five of the number of acres comprized in any such district, and they are hereby authorized and empowered from time to time when need or occasion shall seem to them to require, to cause such alterations to be made in the internal works of Drainage within any of such districts respectively, and also to cause such new or other drains, engines, mills and works, to be from time to time made or executed within any of the said districts respectively, and such communications between the same or any of them and the said main drains, and to remove the present mill-dams now being across the said main drains, or to make such sluice or sluices in or through the same mill-dams respectively, as in the judgment of such Trustees for such districts respectively as aforesaid, may be deemed by them proper and necessary for effecting the Drainage of any of such respective districts, and for supplying the same in times of drought with fresh water, and from time to time to pay and discharge the expences of altering the said existing internal works of Drainage, and of making and executing such new and other drains, engines, mills and works, out of any monies applicable to the general purposes of such respective districts by virtue of the said recited Act, and for such purposes and with such consent of proprietors as aforesaid, to increase the annual acre-rate tax or assessment authorized by the said recited Act, for the maintenance of the internal works of Drainage comprized within any such districts respectively to any sum not exceeding Five Shillings an acre; any thing contained in the said recited Act to the contrary notwithstanding.

Alterations in the Works of Drainage in the Districts may be made, as also new Works therein.

Further Powers for the recovery,

And be it further Enacted, That the said Trustees for such districts for the time being, shall have such and the like powers and