

interested in the said Lands, Tenements, or Hereditaments, (describing them,) subject to the Order, Controul, and Disposition of the said Court of Exchequer; which said Court on the Application of any Person or Persons making claim to such Sum or Sums of Money or any Part thereof by Motion or Petition, shall be and is hereby empowered in a summary Way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Public Funds, or to order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estate or Estates, Title or Interest, of the Person or Persons making claim thereunto, and to make such Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England* who shall receive such Sum or Sums of Money is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay such Sum or Sums of Money into the Bank of *England* as aforesaid.

Where any Question shall arise as to the Title, the Person in Possession shall be deemed entitled thereto.

LXIV. Provided always, and be it further enacted, That where any Question shall arise touching the Title of any Person or Persons to any Money to be paid into the Bank of *England* in the Name and with the Privy of the Accountant General of His Majesty's Court of Exchequer in pursuance of this Act, for the Purchase of any Lands, Tenements, or Hereditaments, or of any Estate, Right, or Interest therein, or to any Bank Annuities to be purchased with any such Money, or the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Hereditaments in respect whereof such Money shall have been so paid at the Time of passing this Act, and all Persons claiming under such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according to such Possession, until the contrary shall be shown to the Satisfaction of the said Court of

Exchequer; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, or that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Hereditaments, or to some Estate or Interest therein.

The Court may order reasonable Expenses of Purchases to be paid by the Trustees.

LXV. Provided also, and be it enacted, That where by reason of any Disability or Incapacity of the Person or Persons, or Corporation, entitled to any Lands, Tenements, or Hereditaments to be purchased under the Authority of this Act, the Purchase Money for the same shall be required to be paid into the Court of Exchequer, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the like Uses in pursuance of this Act, it shall and may be lawful to and for the said Court of Exchequer to order the Expenses of all Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expenses as the said Court shall deem reasonable, to be paid by the said Trustees out of the Monies to be received by virtue of this Act, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

Recovery of Penalties and Forfeitures.

LXVI. And be it further enacted, That all Penalties, Forfeitures, and Fines by this Act inflicted or authorized to be imposed, or to be imposed by virtue of any Rule, Bye Law, or Order hereby authorized to be made (the Manner of levying, recovering, and applying whereof is not herein otherwise directed) shall, upon Proof of the Offences respectively before any Two 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 (if 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 whereupon to levy such Penalties, Forfeitures, and Fines, and such Costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to such Justices, upon the Confession of the Offender or Offenders or otherwise, that the Offender or Offenders hath or have not sufficient Goods or Chattels whereon such Penalties, Forfeitures, or Fines, and such Costs as aforesaid, can be levied, were such Distress Warrant issued, such Justices shall not be required to issue the same, 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 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 Three Calendar Months, unless such 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.

Convictions to be drawn according to the following Form.

LXVII. And for the more speedy Conviction of Offenders against this Act, be it further enacted, That every Justice of the Peace before whom any Persons shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up according to the following Form, or in any other Form to the same Effect; (that is to say,)

Form of Conviction.

‘to wit. } **BE** it remembered, That on [*Time of Conviction*]
‘at [*Place of Conviction*] A. B. [*Name of Offender*] of [*his*
‘Addition] was duly convicted before us, [*Name and Style of*
‘convicting Justices], for that the said A. B. [*Name of Offender*]
‘der] on [*Time of committing Offence*] did [*here state the*
‘Offence against this Act according to the Fact], contrary to
‘the Form of the Statute made in the Fifth Year of the
‘Reign of His Majesty King George the Fourth, intituled
‘[*here set forth the Title of this Act,*] and we do therefore
‘declare and adjudge that the said A. B. [*Name of Offender*]
‘has forfeited for the said Offence the Sum of [*Fine*], or shall
‘be committed to [*Place of Imprisonment*] for the Space of
‘[*Time of Imprisonment*]. Given under our Hands and Seals
‘the Day and Year first above written.

Persons aggrieved may appeal to the Quarter Sessions.

LXVIII. And be it further enacted, That any Person or Persons thinking himself, herself, or themselves aggrieved by any Order or Judgment made or given in pursuance of any Rule, Bye Law, or Order of the said Trustees, or by any Order, Judgment, or Determination of any Justice or Justices of the Peace, relating to any Matter or Thing in this Act mentioned and contained, may, within Two Calendar Months

next after such Order, Judgment, or Determination shall have been made or given, appeal to the Justices of the Peace at the General or Quarter Sessions of the Peace to be holden in and for the said Division of *Holland*, first giving Fourteen Days Notice of such Appeal, and of the Nature and Matter thereof, to the Person or Persons against whom such Appeal is intended to be made, and to the Clerk to the said Trustees, and forthwith after such Notice entering into a Recognizance before some Justice of the Peace for the said Division with Two sufficient Sureties conditioned to try such Appeal, and abide the Order and Award of the said Court thereon; and the said Justices shall in a summary Way either hear and determine the said Appeal at such next General or Quarter Sessions, or, if they think proper, to adjourn the Hearing thereof to the following General or Quarter Sessions of the Peace to be held for the said Division; and the said Justices may, if they see cause, mitigate any Forfeiture or Fine, and may order any Money to be returned which shall have been levied in pursuance of such Rule, Bye Law, or Determination, and may also order and award such further Satisfaction and Costs to be made and paid to the Party injured as they shall judge reasonable; but no Proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for want of Form, or be removed by Certiorari, or by any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere, any Law or Statute to the contrary notwithstanding.

Appointments and other Matters of Form to stand admitted in Evidence, unless Notice given to produce them.

LXIX. And be it further enacted, That in any Action or Suit hereafter to be brought by or against the said Trustees for the Time being, or any of the Persons acting in the Execution of this Act, for any Cause, Matter, or Thing arising out of the same, the Appointments of Trustees, Clerk, Treasurer, Collector, or other Officers or Persons acting in the Execution of this Act, the Books of Entries of the Proceedings of the Trustees for the Time being, the Rates or Assessments to be made by the said Trustees, and the Notices

of any such Rates or Assessments, 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 intends or 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 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 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, her, or their Costs; and if the other Party or Parties 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 the like Manner as if Costs had been awarded to such last mentioned Person or Persons.

Owners and Occupiers of Lands not incompetent Witnesses.

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

Distress not unlawful for Want of Form.

LXXI. And be it further enacted, That when any Distress shall be made in pursuance of the said first 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.

Plaintiff not to recover after Tender of Damages.

LXXII. 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 first recited 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 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 such 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.

Trustees may pay the Expenses of Prosecutions.

LXXIII. 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 first 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 first recited Act or this Act, under the Authority and by the Direction of the said Trustees.

Saving Rights of the Trustees of the Boston Harbour Act.

LXXIV. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to

extend to prejudice, obstruct, prevent, impede, or defeat any Works made or executed or to be made or executed by the Mayor and Burgesses of the Borough of *Boston*, in pursuance of an Act made in the Fifty-second Year of the Reign of His late Majesty King *George* the Third, [52 G. 3. c. 105.] intituled *An Act for improving the Port and Harbour of Boston in the County of Lincoln, for fixing the Wharfage of Goods landed within the said Port and Harbour, and for better maintaining the Buoys, Beacons, and Sea Marks belonging thereto*, or to empower the Trustees under this Act or their Successors to intermeddle with, or to invalidate, lessen, alter, or take away any of the Rights, Powers, or Authorities which by the said Act were vested in the said Mayor and Burgesses; but that the same shall be and continue as fully to all Intents and Purposes as if this Act had never been made; any thing herein contained to the contrary thereof in anywise notwithstanding.

Saving the Rights of the Corporation of Boston,

LXXV. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to alter, abridge, diminish, or take away any of the Rights, Tolls, Benefits, Privileges, Emoluments, Liberties, Franchises, or any former or other Jurisdiction which the Mayor and Burgesses of the said Borough of *Boston* were possessed of or had a Right unto by Charter, Prescription, Custom or otherwise howsoever, before the passing of this Act.

And of the Company of Proprietors of the Fosdike Bridge.

LXXVI. Provided also, and be it further enacted, That nothing herein contained shall extend or be construed to extend to prejudice, obstruct, prevent, hinder, injure, or defeat a certain Bridge erected over the said Place called *Fosdike Wash*, or the Roads or Banks leading to and from the same, or any other Works made or executed or to be made or executed by the Company of Proprietors of the *Fosdike* Bridge, under the Powers and Authorities of an Act made in the Fifty-first Year of the Reign of His late Majesty King *George* the Third, [51 G. 3. c. 71.] intituled *An Act for repealing so much of an Act of His present Majesty as relates*

to making a public Way over Fosdike Wash in the County of Lincoln, and for granting further Powers for building a Bridge over the said Wash, or to authorize or empower the said Trustees or their Successors to make, do, or execute any Works to the Prejudice or Injury of the said Bridge, or such other Works as aforesaid, or to defeat or lessen the Tolls, Rates, or Duties authorized to be taken thereat by the said Company of Proprietors and their Successors, but that the same Powers and Authorities, Tolls, Rates, and Duties shall be preserved and continue as fully and effectually to all Intents and Purposes as if this Act had never been made, any thing herein contained to the contrary thereof in anywise notwithstanding.

Public Act.

LXXVII. 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.



ANNO QUARTO & QUINTO
GULIELMI IV. REGIS.

CAP. 87.

An Act to extend the Powers of the several Acts now in force for improving the Port and Harbour of *Boston* in the County of *Lincoln*.

[25th July 1834.]

WHEREAS an Act was passed in the Fifty-second Year of the Reign of King *George* the Third, [52 G. 3. c. 105.] intituled *An Act for improving the Port and Harbour of Boston in the County of Lincoln, and for fixing the Wharfage of Goods landed within the said Port and Harbour, and for better maintaining the Buoys, Beacons, and Sea Marks belonging thereto*: And whereas by the said Act (after, amongst other Things, setting forth that the Mayor and Burgesses of *Boston* were entitled to divers Tolls, Rates, or Duties upon all Ships or Vessels navigating, coming into, or going out of the Port of *Boston*, for and towards repairing and maintaining the Buoys, Beacons, and Sea Marks belonging to the said Port and Harbour, and also to certain Keyage, Wharfage, and Lastage, for Goods brought into or shipped from the same Port, and that the said Tolls, Rates, and Duties, Keyage, Wharfage, and Lastage were in many Cases difficult to be ascertained and defined, and very

inadequate to the Support and Repair of the said Port and Harbour, and of the Buoys, Beacons, and Sea Marks, Quays, and Wharfs belonging thereto, and for the other Purposes for which the same were granted, and that it was expedient such Tolls, Rates, and Duties, Keyage, Wharfage, and Lastage should in some respects be altered, and that it would be for the Advantage of the Public in general, as well as the said Mayor and Burgesses, that the same should be ascertained, fixed, and clearly defined, and also that it was expedient for the Preservation of the said Port and Harbour, and for rendering the same safe and commodious for the Public, and for the Shipping and Trade of the said Port and Harbour, that certain Improvements should be made between a Place called the *Grand Sluice* and a Place called *Maud Foster's Gowt*) Powers were given for making such Improvements, and the then existing Tolls, Rates, and Duties payable to the Mayor and Burgesses of *Boston* were repealed, and other Rates and Duties were granted and made payable to the said Mayor and Burgesses in lieu thereof: And whereas an Act was passed in the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth, [7 & 8 G. 4. c. 79.] intituled *An Act to extend and enlarge the Powers of an Act passed in the Fifty-second Year of His late Majesty, for improving the Port and Harbour of Boston in the County of Lincoln*, whereby the said Mayor and Burgesses were authorized and required to make, set up, and erect on either Side and in any Part of the said Port and Harbour, from *Maud Foster's Gowt* to *Hobhole Sluice*, such and so many Jetties, Walls, Banks, Weirs, Locks, Sluices, and Works for making, securing, continuing, and maintaining the Channel of the said Port and Harbour from the said *Maud Foster's Gowt* to *Hobhole*, within proper Bounds, for the Use of the Navigation therein, and all such Towing or Haling Paths along or on either Side of the said Port and Harbour, as they the said Mayor and Burgesses and their Successors should think necessary and proper, and also to cleanse, scour out, deepen, widen, enlarge, alter, and vary the Course of the said Port and Harbour from the said *Maud Foster's Gowt* to *Hobhole*, and the Channel thereof, and also to dig, cut, take up, remove, and carry away any Projections, Stands, Stages,

Piles, Jetties, Walls, Piers, Stone, Bricks, Chalk, Sand, Gravel, Rubbish, or any other Obstructions or Impediment whatsoever which should in anywise pervert, stop, affect, injure, prejudice, hinder, or obstruct the free Navigation of the said Port and Harbour from the said *Maud Foster's Gowt* to *Hobhole*; and the said Mayor and Burgesses were also further authorized and required in the first place to make a new Cut of the Length of Eight hundred Yards or thereabouts, of such Width, Depth, and Dimensions as they should deem proper, from a certain Place called *Blue Anchor Bite*, nearly in a straight Line, through *Burton's Marsh*, to *Hobhole Sluice* in the Parish of *Fishtoft* in the said County of *Lincoln*, and to embank the same, and to make such Towing Paths or Haling Ways on both or either Sides of the said Cut as the said Mayor and Burgesses should think proper and necessary: And whereas an Act was passed in the Fifth Year of the Reign of His late Majesty King *George* the Fourth, [5 G. 4. c. 96.] intituled *An Act for explaining, amending, and rendering more effectual an Act of His late Majesty, for improving the Outfall of the River Welland in the County of Lincoln*: And whereas by the said last-mentioned Act (after reciting that the Commissioners under an Act therein recited of the Thirty-fourth Year of King *George* the Third, commonly called the *Welland* Commissioners, had made a navigable Cut or Channel from the Reservoir in the Parish of *Surfleet*, through the open Salt Marshes of *Surfleet* and *Algarkirke*, to *Fosdyke Bridge* in the Parish of *Fosdyke*, and had turned the Waters of the River *Welland* into the said new Cut or Channel by a Dam across the former Channel of the said River, and that great Improvements had thence arisen to the Drainage of the Country and to the Navigation and Trade of the River *Welland* from the Sea to the Town of *Spalding*, and that further Powers were requisite for the Improvement of the River *Welland*, from and below the Staunch fixed across the said River above the Town of *Spalding*, and also below the said Town through *Fosdyke Wash* aforesaid,) the said navigable Cut or Channel and Works, and certain Rates, Taxes, and Assessments, Tolls and Duties payable in respect thereof, were vested in the Trustees who were appointed, or directed to be chosen and appointed,

for the Execution of the now reciting Act, with Powers to make other Improvements, by carrying forward and extending the confined Channel of the said River *Welland* below *Fosdyke Bridge*, before the same falls into or unites with the Channel of the River *Witham* at a Place called the *Scalp*; and certain Tonnage and other Rates were thereby granted to the said Trustees; and all Monies to arise by virtue of the now reciting Act were thereby directed to be applied in executing and perfecting the several Works thereby authorized to be made, and in improving the Channel of the River *Welland* above, in, and through the Town of *Spalding*, and thence to *Fosdyke Bridge*, and in placing Buoys and Beacons below *Fosdyke Bridge*, and in maintaining and improving the Works thereby vested in the said Trustees, except certain Works to be executed in the said River above the Reservoir aforesaid, the Expenses whereof were thereby directed to be paid out of the Rates and Duties on Vessels navigating the said River, by the said Act granted: And whereas, notwithstanding the Powers given to the said Trustees by the said recited Act of the Fifth Year of the Reign of His late Majesty King *George* the Fourth, and the Works which have been executed by the said Trustees by virtue of the said Act, the Channel of the said River *Welland* below *Fosdyke Bridge* is extremely defective, and the Navigation thereof greatly obstructed: And whereas the said new Cut through *Burton's Marsh* to *Hobhole Sluice*, by the said recited Act of the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth authorized and required to be made, has been completed, but the whole of the Improvements contemplated by the said last-mentioned Act have not been effected, and some other of the said Works for securing the Channel of the said Port and Harbour within proper Bounds between the said Place called *Maud Foster's Gowt* and *Hobhole* remain to be executed: And whereas by the new Direction which the said Cut through *Burton's Marsh* has given to the Passage of the Waters of the said River *Witham* the Channel below the Mouth of the River *Welland*, through the Clays into a certain Place called *Clayhole*, has been improved, but still further Improvements might be made in the Outfall of both the said Rivers *Witham* and *Welland*, and

it would be of great Benefit and Advantage if the Powers and Authorities given to the said Mayor and Burgesses by the said Two first recited Acts, or either of them, were extended and enlarged, and the said Mayor and Burgesses were authorized and empowered from Time to Time to execute such additional Works, either in the said River *Witham*, between the Grand Sluice in *Boston* and the said Place called *Clayhole*, or in the River *Welland* below *Fosdyke Bridge*, as should be recommended by One or more experienced Civil Engineer or Engineers, to be appointed as herein-after mentioned, and to pay and apply the surplus Funds which shall henceforth be received by the said Mayor and Burgesses for Tonnage and Lastage Rates by virtue of the said recited Acts of the Fifty-second Year of the Reign of King *George* the Third and the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth for that Purpose, in the Manner and subject to the Regulations herein-after mentioned; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted;

Powers and Provisions of recited Acts extended to this Act, except as hereby altered.

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 all and every the Clauses, Powers, Authorities, Provisions, Exemptions, Penalties, Forfeitures, Rules, Remedies, Directions, Payments, Articles, Conditions, Matters, and Things whatsoever in the said recited Acts of the Fifty-second Year of the Reign of His Majesty King *George* the Third and the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth contained (except so far as the same are hereby altered or varied) shall be and continue in full Force and Effect, and shall be as good, valid, and effectual for carrying this Act into execution in as full, ample, and beneficial Manner, to all Intents and Purposes whatsoever, as if the same were again repeated and re-enacted in the Body of this present Act.

This Act not to invalidate a certain Mortgage due to the Exchequer Bill Loan Commissioners.

II. And whereas the Commissioners acting in execution of an Act of Parliament made and passed in the Third Year of the Reign of His late Majesty King *George* the Fourth, [3 G. 4. c. 86.] intituled *An Act to amend Two Acts of the Fifty-seventh Year of His late Majesty and the First Year of His present Majesty, for authorizing the Issue of Exchequer Bills and the Advance of Money for carrying on Public Works and Fisheries, and Employment of the Poor, and to authorize a further Issue of Exchequer Bills for the Purposes of the said Acts*, and the Acts therein recited or referred to, and the several Acts subsequently passed for amending the same, did on or about the Eighth Day of *July* One thousand eight hundred and twenty-eight, under the Provisions of the said Acts, or some or one of them, advance and lend to the Mayor and Burgesses of *Boston*, acting under and in pursuance of the said recited Acts of the Fifty-second Year of the Reign of King *George* the Third and the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth, the Sum of Twenty thousand Pounds in Exchequer Bills, for the Purpose of completing the Works thereby authorized to be made, the Repayment of which Advance by an annual Instalment of One thousand Pounds on Account of Principal, with Interest at Five Pounds *per Centum per Annum* on the Principal from Time to Time remaining due, was secured to the said Commissioners by a certain Indenture of Mortgage, under the Seal of the said Mayor and Burgesses, and bearing Date the said Eighth Day of *July* One thousand eight hundred and twenty-eight, whereby, for the Considerations therein mentioned, they, the said Mayor and Burgesses, did assign unto *William Holden*, the then Secretary of the said Commissioners, all and every the Tonnage Rates, Tolls, Duties, and Receipts whatsoever accruing, or which should or might thereafter accrue, arise, be taken, collected, or received under or by virtue of the said Acts of the Fifty-second Year of the Reign of King *George* the Third and the Seventh and Eighth Years of the Reign of His said late Majesty King *George* the Fourth, relating to the said

Port or Harbour of *Boston*, or either of them, or any other Act or Acts of Parliament relating to the same Port and Harbour; be it therefore enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, defeat, make void, or in any Manner incumber or affect the said Indenture bearing Date the Eighth Day of *July* One thousand eight hundred and twenty-eight, or any of the Powers and Remedies of the said Commissioners for the Issue of Exchequer Bills, by virtue thereof or in relation thereto; and that all and every the Tonnage Rates, Tolls, Duties, and Receipts which shall continue to accrue, arise, be taken, or received by the said Mayor and Burgesses, under or by virtue of the said recited Acts or either of them, shall be liable for and applicable to the Repayment of the said Sum of Twenty thousand Pounds, and Interest at the Rate aforesaid, in such and the like Manner, to all Intents and Purposes, as the Tonnage Rates, Tolls, Duties, and Receipts receivable under the said Acts of the Fifty-second Year of the Reign of King *George* the Third and the Seventh and Eighth Years of the Reign of His said late Majesty were applicable to the Repayment of the same before the passing of this Act, any thing in this Act contained to the contrary thereof in anywise notwithstanding.

For improving the Outfall of the Two Rivers.

III. And be it further enacted, That it shall be lawful for the said Mayor and Burgesses, and they are hereby directed, authorized, and required, from Time to Time to make, erect, and execute such Works, either in the said River *Welland* below *Fosdyke Bridge*, or in the said River *Witham* between the said Grand Sluice and *Clayhole* aforesaid, or in the Improvement of the Outfall of both the said Rivers into *Clayhole*, as shall be directed, ascertained, and determined by such Engineers or Engineer to be appointed as herein-after mentioned, or their Umpire to be appointed as herein-after mentioned, to be for the Benefit and Advantage of the Outfalls of both the said Rivers; and such Works shall be made, erected, and executed under the Superintendence of such Engineers or Engineer or Umpire, if the Parties by whom such Engineers or Engineer are or is to be appointed

as herein-after mentioned shall agree to require such Superintendence, but not otherwise.

Power to appoint Engineers for the Improvement of the Two Outfalls generally.

IV. And be it further enacted, That it shall be lawful for the said Mayor and Burgesses, and they are hereby authorized and required, from Time to Time to nominate and appoint, by Writing under their Common Seal, some Person to act on their Behalf as an Engineer for the Purposes in this Act mentioned, either previous to the Notice being given as herein-after mentioned, or within One Calendar Month after Service of Notice in Writing, signed by any Seven or more of the Trustees acting in execution of the said recited Act of the Fifth Year of the Reign of His late Majesty, on the Mayor of *Boston* for the Time being, or on the Clerk or Clerks of the said Mayor and Burgesses, either personally or by leaving such Notice with some Inmate at the last or usual Place of Residence of such Mayor or Clerk or Clerks, requiring the said Mayor and Burgesses to nominate and appoint some Person to act as such Engineer; and it shall also be lawful for the Trustees acting in execution of the said recited Act passed in the Fifth Year of the Reign of His late Majesty, at any Meeting to be called and held in like Manner as is provided or authorized by the said last-mentioned Act for calling and holding Meetings for carrying the said Act into execution, and they are hereby authorized and required, from Time to Time, either previous to the Notice being given as herein-after mentioned, or within One Calendar Month after Service of Notice in Writing under the Hand of the Mayor of *Boston* for the Time being, or under the Hand or Hands of the Clerk or Clerks of the said Mayor and Burgesses by their Direction, on the Clerk or Clerks of the said Trustees acting in execution of the said recited Act of the Fifth Year of the Reign of His late Majesty, either personally or by leaving such Notice with some Inmate at the last or usual Place of Residence of such Clerk or Clerks of the said Trustees, requiring the said Trustees to nominate and appoint some Person to act as such Engineer, to nominate and appoint, by Writing under their Hands, or under the Hands

of any Seven or more of them, some Person to act on their Behalf as an Engineer for the Purposes in this Act mentioned; or it shall be lawful for the said respective Parties to appoint one and the same Person to act on the Behalf of both Parties, such Appointment to be made in Writing under the Seal of the said Mayor and Burgesses, and under the Hands of Seven or more of the said Trustees, under Authority of an Order of a Meeting to be called and held as aforesaid.

Umpire to be appointed.

V. And be it further enacted, That in case Two Engineers shall be appointed under the Power herein-before contained, such Two Engineers shall, before they proceed to act in such Reference, nominate and appoint by Writing under their Hands some able and experienced Person to act as an Umpire between them in the Subject Matter of such Reference, in case any Difference of Opinion shall arise between the said Engineers touching the same; and in case any such Difference of Opinion shall arise between the said Engineers, they or either of them are and is hereby required and authorized to call in to their Assistance the said Person who shall have been nominated and appointed as such Umpire as aforesaid, who, after hearing and duly considering the whole of the Matter on which such Difference of Opinion shall have arisen, shall decide thereon; and the Direction, Determination, Order, or Award of the said Two Engineers touching so much of the Subject Matter of any such Reference as they shall agree upon, and the Direction, Determination, Order, or Award of the said Umpire touching so much of the said Subject Matter of any such Reference as the said Engineers shall not agree upon, or shall not direct, determine, order, or award upon, shall be final and conclusive upon all Persons and Parties whomsoever.

For appointing Engineers in case of Death, &c.

VI. And be it further enacted, That it shall be lawful for the said Mayor and Burgesses and for the said Trustees respectively, from Time to Time when and as they shall think fit, to dismiss, discharge, or remove such Engineer or Engineers so appointed by them respectively, and to appoint

any other Engineer in the Place of such Engineer who shall be so dismissed, discharged, or removed, or who shall die, decline, discontinue, or become incapable to act: Provided always, that no such Engineer or any Umpire to be appointed by virtue of this Act shall at any Time be removed or dismissed, nor his Appointment vacated or revoked, pending the Reference to him of any Matter or Thing until due Time shall have been allowed to him for determining or awarding thereon.

Application of Monies.

VII. And be it further enacted, That from and after the Day of the Commencement of this Act it shall and may be lawful to and for the said Mayor and Burgesses, and they are hereby empowered and required, to pay and apply any Monies which shall then be in their Hands, and have been received by them for Tonnage and Lastage Rates under or by virtue of the said recited Acts of the Fifty-second Year of the Reign of King *George* the Third and the Seventh and Eighth Years of the Reign of His late Majesty King *George* the Fourth, and all Monies which shall thenceforth be collected or received by them for such Tonnage and Lastage Rates under or by virtue of the same Acts or either of them, in the first Place, in Payment and Discharge of all the Costs, Charges, and Expenses of applying for and obtaining and passing this Act or incidental thereto, together with lawful Interest for any Money advanced or to be advanced for such Purposes; and afterwards, without Prejudice nevertheless to the Payments to the said Exchequer Bills Loan Commissioners as herein-before mentioned and herein-after provided, in Payment and Discharge of all the Costs, Charges, and Expenses incurred by the said Mayor and Burgesses in consequence of such Application having been made, or incidental to the Application for or the passing of this Act, together with lawful Interest as aforesaid; also in Payment of the Expenses of collecting and receiving such Tonnage and Lastage Rates and Duties; also in Payment of the several Instalments as and when the same shall become due and payable for and on account of the Principal Monies which have been borrowed of the Exchequer Bills Loan