

A N

A C T

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*.

[ROYAL ASSENT, 3 June 1824.]

5 GEO. IV.
Sess. 1824.

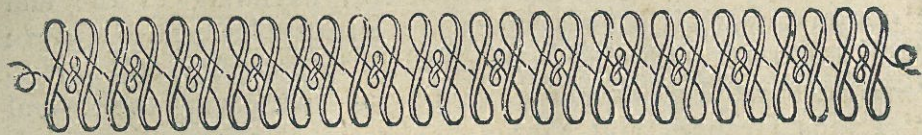
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5 GEO. IV.—Sess. 1824.



N. B. Ashburn

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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*.

[ROYAL ASSENT, 3 June 1824.]

WHEREAS an Act was passed in the Thirty-fourth year of the reign of his late Majesty King *George* the Third, intituled, "An Act for improving the Outfall of the River *Welland*, in the County of *Lincoln*, and for the better Drainage of the Fen Lands, Low Lands and Marshes discharging their Waters through the same into the Sea; and for altering and improving the Navigation of the said River *Welland*, by means of a New Cut, to commence below a certain Place called the *Reservoir*, and to be carried from thence through the inclosed Marshes and open Salt Marshes into *Wyberton Roads*, between the Port of *Boston* and a Place called *The Scalp*, and for disposing of the bare or white Sands adjoining to the said River, and for building a Bridge over the said Cut:"

Preamble:
34 Geo. 3,
c. 102.

And whereas an Act was passed in the Forty-first year of his said late Majesty's reign, intituled, "An Act for draining, dividing, allotting and inclosing *Deeping, Langtoft, Baston, Spalding, Pinchbeck* and *Cowbit* Commons, within the Parts of *Kesteven* and *Holland*, in the County of *Lincoln*, and also for draining *Croyland Common* or *Goggushland*, and certain Lands and Grounds in the Parishes of *Bourn* and *Thurlby*, adjoining or lying contiguous to the North Bank of the River *Glen*,

41 Geo. 3,
c. 128.

“ and certain inclosed Lands in *Deeping Fen*, and in the
 “ Parishes of *Spalding* and *Pinchbeck*, adjoining to the said
 “ Commons, and lying between the Rivers *Glen* and *Welland*;
 “ and also for rendering more effectual several Acts of Parlia-
 “ ment heretofore passed for draining and preserving the several
 “ Lands Grounds and Commons hereinbefore mentioned, or
 “ certain parts thereof :”

51 Geo. 3,
 c. 71, Fosdike
 Bridge Act.

And whereas an Act was passed in the Fifty-first year of the
 reign of his said late Majesty, 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* :”

Navigable
 Cut made
 from Shep-
 herd's Hole
 to Fosdike
 Inn.

And whereas the Commissioners under the said Act of the
 Thirty-fourth year of his said late Majesty, commonly called the
Welland Commissioners, have by and out of the Monies which
 were paid into their hands by the general Commissioners for
 Drainage appointed by the said Act of the Forty-first year of
 his said late Majesty, made a Navigable Cut or Channel from
 the *Reservoir*, in the Parish of *Surfleet*, through the open Salt
 Marshes of *Surfleet* and *Algarkirk* to *Fosdike Bridge*, in the
 Parish of *Fosdike*; and have turned the Waters of the said River
Welland into the said New Cut or Channel by a Dam across
 the former Channel of the said River :

Drainage and
 Navigation
 by the
Welland
 improved.

And whereas, by means of the several Works which have been
 executed by the said *Welland* Commissioners, between the *Reservoir*
 and *Fosdike Bridge* aforesaid, great improvements have 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 it is
 expedient that the said Works so executed by the said *Welland*
 Commissioners as aforesaid, should be improved, established, and
 rendered permanent and effectual for the purposes of Drainage
 and Navigation, and it has become unnecessary to make and
 execute so much of the said Navigable Cut as by the said first
 recited Act was directed to be made across the Sea Bank into
 and across the inclosed Marshes in the Parishes of *Algarkirk*,
Fosdike, *Kirton*, *Frampton* and *Wyberton* aforesaid, and other
 Works consequent thereupon; all which last mentioned Cut and
 Works have been long since abandoned :

And whereas it is also expedient that some further Powers
 should be granted for the removal of Shoals in the Channel of
 the said River *Welland*, from and below the Staunch now fixed
 across the said River, above the Town of *Spalding* aforesaid, and
 in and through the said Town to *Fosdike Bridge* aforesaid, and for
 training or directing the Passage of the Waters in and through *Fos-
 dike Wash* aforesaid, and the removal of Shoals and other imped-
 iments to the discharge of the said Waters therein; and that the
 said Act of the Thirty-fourth year of his said late Majesty should
 in these and other respects be explained amended and rendered
 more effectual;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted by The KING's
 Most Excellent MAJESTY, by and with the advice and consent of
 the Lords Spiritual and Temporal, and Commons, in this present
 Parliament assembled, and by the Authority of the same, THAT
 the existing Navigable Cut or Channel forming part of the new
 Channel of the said River *Welland*, hereinbefore described to
 have been made from the *Reservoir* to *Fosdike Bridge*, and all the
 existing banks and forelands thereof, and the several existing sluices
 through the said banks respectively, and each and every of them,
 shall be deemed and taken to be, and the same are hereby declared
 to be, parts of the works by the said Act of the thirty-fourth
 year of his said late Majesty authorized to be made by the said
 Commissioners, and the same shall be accordingly maintained,
 supported, established and improved.

New Cut
 from the
 Reservoir
 to Fosdike
 Bridge.

And be it further Enacted, That the said *Welland* Commis-
 sioners shall and they are hereby authorized and required, after
 deducting and retaining to themselves all such costs charges and
 expences as they shall have incurred, or shall necessarily or rea-
 sonably incur in collecting recovering or receiving the rates taxes
 and assessments now payable to or receivable by them under
 and by virtue of the said first recited Act, and which shall grow
 due up to and inclusive of the twenty-fourth day of *June*, one
 thousand eight hundred and twenty-four, and which they are
 hereby expressly authorized and required to collect recover and
 receive, with all reasonable dispatch, from time to time to pay
 and apply the net proceeds of all such monies as they shall
 receive for or on account of such rates taxes and assessments
 as aforesaid, together with all other monies which now are or
 shall

Taxes paid to
 the *Welland*
 Commis-
 sioners to be paid
 over to the
 Trustees of
 this Act.

shall be in their hands, or in the hands of their receiver treasurer or other officer or agent, to the Trustees to be appointed in pursuance of this Act, as hereinafter is provided or mentioned, or their treasurer; and the receipts of the said Trustees, or their treasurer, for the monies so paid to them or him, shall be full and effectual discharges to the same Commissioners for the monies therein respectively acknowledged or expressed to be received.

Certain
Lands dis-
charged from
Taxes.

And be it further Enacted, That all the commons and other lands, including *Cowbit Wash*, that have been allotted under the secondly before recited Act, and both banks of the said river *Welland*, and the south bank of the river *Glen* for the space the said banks respectively adjoin the said rivers, and also the herbage of the said banks, and of one hundred and twenty feet of land next the same, and also all lands set out for roads and drains, together with the banks and forelands of such drains; and also all the lands lying north of the said river *Glen*, in *Pinchbeck*, *Surfleet*, *Gosberton* and *Quadring*, and all the lands in *Sutterton*, *Algarkirk* and *Fosdike*, in the said county of *Lincoln*, shall be held and be absolutely freed exonerated and discharged of and from the payment of all rates taxes and assessments charged or chargeable thereon by the said first recited Act.

Lands sold
to remain
charged.

Provided always, and be it further Enacted, That nothing hereinbefore contained shall extend or be construed to extend to exonerate or discharge from the taxes rates or assessments of one shilling an acre, and sixpence an acre respectively imposed thereon, under or by virtue of the said first recited Act, any part or parts of the said commons called *Deeping Common*, *Cowbit Common*, *Langtoft Common*, *Boston Common*, *Spalding Common* and *Pinchbeck South Fen*, or the said lands called *Cowbit Wash*, or the said *South Drove* and *North Drove* respectively, that have been respectively sold and conveyed by the General Commissioners of the said secondly recited Act, (save and except the said one hundred and twenty feet of land in breadth next the banks of the said rivers *Welland* and *Glen*, and the banks of the said rivers respectively,) nor any part of the said common called *Croyland Common*, otherwise *Goggushland*, nor the said lands called *Croyland Wash* and *Fodder Lots*, except as to the one hundred and twenty feet of land in breadth next the bank of the said river *Welland*, and the bank of the said river, heretofore part of the said *Croyland Common*.

And be it further Enacted, That from and immediately after the twenty-fourth day of *June* one thousand eight hundred and twenty-four, the said navigable Cut or Channel, made from or below the *Reservoir* to *Fosdike Bridge* as aforesaid, and the banks and forelands thereof, and the several sluices through the said banks respectively, and all the rates taxes and assessments, tolls and duties, and other revenues payable under and by virtue of the said first recited Act and of this Act, shall vest in the Trustees of this Act for the time being; and that all the powers and authorities which in and by the said first recited Act were vested in or exercisable by the Commissioners and Trustees respectively under that Act, shall be vested in and be exercisable by the Trustees of this Act, with the powers and authorities hereby granted to them, for the maintenance, support, preservation and protection of the said Cut or Channel, banks, forelands and sluices respectively, and for the collection and receipt of the said taxes rates and assessments, tolls and duties respectively, as fully and effectually as if all such powers and authorities were herein repeated and re-enacted, and expressly given to or vested in the Trustees of this Act for those purposes, in words applicable thereto respectively; except the powers and authorities hereinbefore reserved to the Commissioners and Trustees of the said first recited Act, for the collection and receipt of all rates taxes and assessments to grow due under that Act, up to and inclusive of the said twenty-fourth day of *June* one thousand eight hundred and twenty-four.

Navigable Cut and
other Works, and
Taxes, vested in
Trustees.

Provided always, and be it Enacted, That the rates and taxes, which by the said first recited Act were directed to be raised and levied by the Commissioners of Sewers, and to be by them paid into the hands of the Commissioners and Trustees of the same Act, shall from and after the said twenty-fourth day of *June* one thousand eight hundred and twenty-four, be levied and raised in the same manner as the other rates and taxes are by this Act authorized to be levied and raised in the first instance by the Trustees of this Act, and the same shall thenceforth be charged and paid by and according to the statute acre, and so in proportion for any less quantity than an acre.

Rates and Taxes
which were direct-
ed by first recited
Act to be raised
by Commissioners
of Sewers, and paid
by them to Com-
missioners and
Trustees, to be
levied and raised
by Trustees of this
Act in the first
instance.

And be it further Enacted, That it shall be lawful for the said Trustees from time to time and at all times hereafter, when and as occasion shall require, and without making any compensation in respect thereof, to enter into and upon the lands and grounds, not being old inclosure, next adjoining and outside of the banks of the said new Cut or Channel, within the distance or

Trustees to take
Earth and Mate-
rials for repairs of
the Banks.

space of twenty feet from the base of such banks respectively, for the purpose of digging getting and carrying away sods earth and other materials for the maintenance and repair of the banks and forelands of the said new Cut or Channel; and in case of emergency, or if there shall not be sufficient sods and other materials within the said distance or space of twenty feet, for the purposes aforesaid, then and in such case it shall be lawful for the said Trustees, to enter into and upon the lands and grounds, not being old inclosure, next adjoining the banks of the said new Cut or Channel, to any distance not exceeding forty feet from the base of such banks, for the purposes aforesaid, but not so as to obstruct or prejudice the road hereinafter directed to be set out over the land next adjoining the bank on the north side of the said new Cut.

Occupiers of
Lands not to
plough with-
in forty feet
from the
Banks.

Provided always, and be it further Enacted, That it shall not be lawful for the owners or occupiers of the lands and grounds adjoining the said banks, to plough break up or have in tillage, any part of the said lands and grounds within the distance or space of forty feet from the base of the said banks, but the same lands and grounds for and within such distance or space shall be grazed or kept in pasture or as meadow land.

Trustees to
set out Occu-
pation Roads.

And be it further Enacted, That it shall be lawful for the said Trustees, and they are hereby required to mark and set out, over and upon the uninclosed lands and grounds next adjoining the outer side of the banks of the said new Cut or Channel respectively, a carriage, horse, drift and foot road or path, of the width of fourteen feet, to be measured from the base of the outer side of the said banks respectively, extending along the whole line of the north and south banks of the said new Cut or Channel, upon the late open marsh or sands, for the use of and to be maintained by the owners and occupiers of the said lands and grounds next adjoining the said banks; and also all such other roads ways and paths upon along or across the banks of the said new Cut or Channel, and the lands lying between the same, and the sea banks on each side of the said late open marsh, (making such compensation to the owners of the lands and grounds over along and across which such last mentioned road or roads may be set out as hereinafter is mentioned,) as shall be necessary to shew and preserve a free communication to and from the banks of the said new Cut or Channel and the said sea banks, on each side of the said late open wash, between the Reservoir and Fosdike Bridge and Road, and to preserve and afford

afford the means of communication with the said new Cut or Channel for the purposes of loading or unloading any vessel or vessels therein.

Provided always, and be it further Enacted, That the said Trustees shall and they are hereby required, by and out of the proceeds of the tolls and duties hereinafter authorized to be taken and levied, in respect of goods matters and things carried or conveyed along any part of the said new Cut or Channel, to pay and allow to the owner or several owners of the lands lying between the banks of the said new Cut or Channel, and the said sea banks respectively, over or upon which lands any such road or roads shall be set out as last mentioned, such annual sum or sums of money as shall be a fit and due compensation for the land taken and used for the purposes of such road or roads; the amount of which compensation, in case of difference, shall be settled and determined in the manner next hereinafter provided for, touching the rent of the banks of the said new Cut or Channel.

Satisfaction
to be made
for Land
taken for
Roads.

And be it further Enacted, That it shall be lawful for the said Trustees, and they are hereby required from time to time to let the herbage of the said banks and forelands of the said new Cut or Channel, to be grazed with sheep only, to each respective owner or occupier of lands and grounds next adjoining the said banks, who shall be willing or desirous to take the same, for such term or terms of years as to the said Trustees shall seem fit and expedient, and at and for such annual rent as shall be agreed upon by and between the said Trustees and the said respective owners or occupiers of the lands and grounds next adjoining the said banks respectively; and in case the said Trustees and the said respective owners or occupiers of such lands and grounds, or any of them, shall not agree upon the amount of such annual rent, then the same shall be fixed and ascertained by three persons not interested in the premises, to act as Commissioners therein, one of which persons shall be nominated by the said Trustees, one other by such owner or occupier, or respective owners or occupiers of lands and grounds next adjoining the banks of the said new Cut or Channel, the amount of whose rent shall be in dispute, and the third by such two persons to be nominated as aforesaid, and the determination in writing of the said Commissioners, or any two of them, shall be final and conclusive to all parties; and in case the rent so determined by the said Commissioners, shall be equal to or greater in amount than the rent required by the said Trustees, the reasonable costs and charges of the said Commissioners shall be borne

Trustees to
let Herbage
of the Banks
and Fore-
lands to Oc-
cupiers of
adjoining
Lands.

borne and discharged by the said owner or occupier, or respective owners or occupiers; but if the amount of such rent to be ascertained as last aforesaid shall be less than the rent required by the said Trustees, such costs and charges shall be borne and defrayed by the said Trustees, out of the monies to come to their hands under and by virtue of this Act; and in case the said respective owners or occupiers of lands and grounds respectively next adjoining the banks of the said new Cut or Channel, or any of them, shall refuse to rent or hire the herbage of the said banks and forelands, and shall signify their refusal in writing under their hands respectively, to be delivered to the said Trustees or their clerk, or if within one calendar month after notice in writing shall have been given by the said Trustees to the said respective owners or occupiers, of their readiness to treat for their letting the herbage of the said banks and forelands, the said respective owners or occupiers, or any of them, shall neglect or refuse to enter into a treaty for renting the same, then and from thenceforth it shall be lawful for the said Trustees to let the said herbage of the said banks and forelands to any other person or persons who may be willing to rent or hire the same, for such term or terms of years, at such annual rent or rents, and subject to such regulations and restrictions as to the said Trustees shall seem fit and expedient.

Provided always, and be it further Enacted, That such of the said owners or occupiers of lands and grounds next adjoining the banks of the said new Cut or Channel, as shall refuse to rent or hire the herbage of the said banks and forelands respectively fronting upon his her and their lands and grounds respectively, shall make and maintain, and they are hereby respectively required at his her or their own costs and charges, to make and maintain a good and sufficient fence between his her or their lands and grounds next adjoining the said banks, and the base of the said banks respectively, during so long time as the herbage of the said banks and forelands shall not be rented or occupied by such respective owners.

Appointment
of Trustees.

And be it further Enacted, That on the twenty-fourth day of June in this present year, on the last *Wednesday* in the month of *April* in the year of our Lord one thousand eight hundred and twenty-seven, and on the same day in every successive third year, Trustees shall be elected nominated and appointed for the maintenance support and improvement of the said new Cut or Channel, banks sluices and other works, and the drainage and navigation thereby, and for executing the other purposes of this

this Act, in manner following; (that is to say,) eleven of such Trustees, by such persons and in such proportions and manner as by the said secondly recited Act are directed, as to the election and appointment of the Trustees of the general or joint works of drainage executed under the authority of that Act (except as to the day of such election;) one other of such Trustees by the Mayor and Aldermen of the borough of *Stamford* in the said county of *Lincoln*; and one other of such Trustees by the owners of old inclosed lands charged or to be charged to the works of drainage under or by virtue of this Act, in each of the said parishes of *Spalding* and *Pinchbeck* within which such old inclosed lands are respectively situate; all of which last mentioned Trustees shall be elected by the majority, according to the number of acres belonging to the owners of such old inclosed land in each and every such parish, present at a meeting to be held in the common vestry room of each such parish church, between the hours of ten and twelve of the clock in the forenoon: Provided always, that in case any of the persons, bodies politic or corporate, having the right of nominating any such Trustees or Trustee as aforesaid, shall fail or neglect so to do, such failure or neglect shall not prejudice or affect the powers of the Trustees who shall have been duly elected: Provided also, that in case any of the persons, bodies politic or corporate, having such right of nominating Trustees or a Trustee as aforesaid, shall, after having made such nomination, neglect or decline, at the expiration of any term of three years, to renew such nomination, it shall be lawful for every such last elected Trustee or Trustees, if then living, to continue to act in the trust until some other person or persons shall be elected a Trustee or Trustees in his or their place.

And be it further Enacted, That when and as often as any of the Trustees to be elected and appointed as hereinbefore is mentioned, or any Trustee or Trustees to be appointed in the place and stead of any of them as hereinafter mentioned, shall die or refuse, or become incapable to act in the execution of this Act, then and in every such case it shall be lawful for the person or persons, bodies politic or corporate, by whom the Trustee or Trustees so dying or refusing, or becoming incapable to act, was or were originally appointed, and in like manner as hereinbefore is directed with respect to the original appointment, on some convenient day to be appointed for that purpose by advertisement, to be published in the *Lincoln Rutland and Stamford Mercury*, or if that newspaper shall not then be published, in some other

How new
Trustees
shall be
appointed.