



CHAPTER cliii.

An Act to authorise the construction of a New Cut and other Works for improving the Outfall of the River Witham in the county of Lincoln, and the constitution of a Joint Board for effecting such Works; and for other purposes. A.D. 1880.
[6th August 1880.]

WHEREAS floods and much damage often result from the defective condition of the Outfall of the River Witham in the county of Lincoln, and its improvement is an object of local and public importance:

And whereas by the Act of the second year of the reign of King George the Third, chapter thirty-two, “for draining and preserving
“ certain low lands called the Fens, lying on both sides of the
“ River Witham in the county of Lincoln, and for restoring and
“ maintaining the navigation of the said river from the High
“ Bridge in the city of Lincoln through the borough of Boston to the
“ sea,” (in this Act referred to as the Act of 1762,) the low lands and grounds therein described were divided into six districts, called the First, Second, Third, Fourth, Fifth, and Sixth Districts, and General Commissioners for the purposes of drainage (in this Act referred to as “the Witham General Commissioners”) were constituted, and were empowered to tax and charge all the low lands and grounds within the several districts with yearly rates and taxes for purposes of drainage, and to borrow money on such rates and taxes, and to execute divers works:

And whereas the Act of 1762 has been extended and amended by the following Acts; that is to say, an Act of the forty-first year of King George the Third, chapter one hundred and thirty-five, an Act of the forty-third year of King George the Third, chapter one hundred and eighteen, an Act of the fifty-second year of King George the Third, chapter one hundred and eight, an Act of the fifty-eighth year of King George the Third, chapter sixty, an Act of the seventh

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A.D. 1880. year of King George the Fourth, chapter two, an Act of the tenth
— year of King George the Fourth, chapter one hundred and twenty-
three, an Act of the second year of Her present Majesty, chapter
28 & 29 Vict. thirty-four, the Witham Drainage Act, 1865, and the Witham
c. cxxiv. Drainage (Fourth District) Act, 1867 (herein-after referred to,
30 & 31 Vict. together with the said Act of 1762, as “the Witham Drainage
c. cxxxviii. Acts”); and by the said Act of the fifty-eighth year of the reign
of King George the Third, chapter sixty, certain low lands and
grounds, since known as and in this Act called the “Five Thousand
Acre District,” were added to the said Fourth District:

And whereas by the Act of the fifth year of the reign of King
George the Third, chapter eighty-six, “for draining and improving
“ certain low marsh and fen lands lying between Boston Haven
“ and Bourn, in the parts of Kesteven and Holland, in the county of
“ Lincoln,” Commissioners (in this Act referred to as “the Black
Sluice Commissioners”) were constituted and invested with powers
for the drainage of the districts of land therein described and now
10 Geo. 3. known collectively as the Black Sluice Level; and the said Act has
c. xli. been amended by the Black Sluice Drainage Act, 1770, the Black
9 & 10 Vict. Sluice Drainage Act, 1846, and the Black Sluice Drainage Amend-
c. ccxcvii. ment Act, 1849:
12 & 13 Vict. c. lix.

And whereas by the Act of the fifty-second year of King George
the Third, chapter one hundred and five, “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,” as extended and amended by an Act of the
seventh and eighth years of the reign of King George the Fourth,
chapter seventy-nine, and by an Act of the fifth year of the reign of
Her present Majesty, session two, chapter sixty, (which Acts are
herein-after referred to as “the Boston Harbour Acts,”) the Mayor
and Burgesses (now styled by virtue of the Municipal Corporations
5 & 6 Will. 4. Act, 1835, the Mayor, Aldermen, and Burgesses) of the borough of
c. 76. Boston, in the county of Lincoln, were invested with powers for the
preservation and improvement of the port and harbour of Boston,
and with powers of taking tolls and dues, and other powers relating
to the said port and harbour:

And whereas the formation of a new cut from a point in the
present bed of the River Witham near Hobhole Sluice, to terminate
in Clayhole, and the other works described in this Act, would
greatly improve the outfall and channel of the river, and tend to
the prevention of floods, and generally would increase the benefits
derived from the exercise of the powers conferred by the above-
mentioned Acts on the Witham General Commissioners, the Black

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Sluice Commissioners, and the Mayor, Aldermen, and Burgesses of the borough of Boston respectively : A.D. 1880.

And whereas the Witham General Commissioners, the Black Sluice Commissioners, and the Mayor, Aldermen, and Burgesses of the borough of Boston are agreed and have resolved to the effect that it is desirable that the said works should be executed, and that the execution and maintenance of them should be intrusted to a Joint Board, composed of representatives chosen by their several bodies as herein-after provided :

And whereas it is expedient that such Joint Board be accordingly constituted and authorised to construct and maintain the new cut and other works described in this Act, and that provision be made for the Witham General Commissioners, the Black Sluice Commissioners, and the Mayor, Aldermen, and Burgesses of the borough of Boston to contribute to the expenses of the Joint Board for the purposes of this Act :

And whereas it is expedient that borrowing powers be conferred on the Witham General Commissioners and on the Mayor, Aldermen, and Burgesses of the borough of Boston, and that the said Commissioners be authorised, for the purpose of their contributions to the Joint Board under this Act, to levy such Outfall tax as is in this Act mentioned :

And whereas certain lands situate in the parishes or places of Boston, Boston-East, Skirbeck, Fishtoft, and Freiston, in the parts of Holland, and in the parish of Sibsey, in the parts of Lindsey, all in the county of Lincoln, which are not included within any of the districts under the management of the Witham General Commissioners or of the Black Sluice Commissioners, will derive material benefit from the execution of the said works and the improvement of the Outfall of the River Witham, and it is reasonable that they should be made liable to the Outfall tax leviable by the Witham General Commissioners under this Act :

And whereas for the purposes of this Act plans and sections showing the lines and levels of the works proposed to be executed and the lands proposed to be taken for the purposes of this Act, with a book of reference to those plans, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, have been deposited with the clerk of the peace for the parts of Holland in the county of Lincoln, and are in this Act referred to respectively as the deposited plans, sections, and book of reference :

And whereas the objects aforesaid cannot be attained without the authority of Parliament :

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A.D. 1880. — May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen'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, as follows:

Short title. 1. This Act may be cited for all purposes as the River Witham Outfall Improvement Act, 1880.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 8 & 9 Vict. c. 20. 2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof, are hereby (so far as they are applicable for the purposes of and are not inconsistent with this Act) incorporated with this Act, subject, as regards the said incorporated provisions of the Railways Clauses Consolidation Act, 1845, to the following modifications; namely,

(i.) The word "Company" in those provisions means for the purposes of this Act the Joint Board constituted by this Act:

(ii.) The word "railway" in those provisions means for the purposes of this Act any work shown on the deposited plans, and by this Act authorised.

Interpretation of terms. 3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the term "the Corporation" means the Mayor, Aldermen, and Burgesses of the borough of Boston, whether acting under the provisions of the Municipal Corporations Acts or in the execution of the Boston Harbour Acts; the term "the borough" means the borough of Boston; the term "the Joint Board" or "the Board" means the Witham Outfall Board by this Act constituted; the term "person" includes a corporation; and the term "superior courts" or "court of competent jurisdiction," or any other like expression in this Act, or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and in this Act the Witham General Commissioners, when acting for the Fourth District of the Witham Drainage, are referred to as "the General (Fourth District) Commissioners."

Power to make new cut and 4. Subject to the provisions of this Act, the Board are hereby authorised, in the lines and according to the levels shown on the

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deposited plans and sections, so far as such lines and levels are shown thereon, to execute the following works; (that is to say,) A.D. 1880.

- execute
other works.
- (I.) To excavate and otherwise form and maintain a new cut or channel for the improvement of the Outfall of the River Witham (herein-after called "the New Cut"), commencing at a point in the centre of the present bed of the river, in the parish of Fishtoft or the parish of Wyberton, in the parts of Holland, in the county of Lincoln, one hundred and fifty yards or thereabouts, measured in a south-westerly direction, from the centre of Hobhole Sluice, in the said parish of Fishtoft, and terminating on the shore or bed of the sea, or estuary of the Wash, at or in a place called or known as Clayhole, in the parish of Freiston, or extra-parochial place adjoining that parish, in the parts of Holland, in the county of Lincoln, at a point sixty chains or thereabouts north-east of a certain place called or known as the Ballast Beacon in the said estuary;
 - (II.) To divert into the New Cut and works the waters of the River Witham or Boston Haven, Hobhole Drain, and all other drains, creeks, runs, and streams flowing, running, or draining into the same, and to stop up and appropriate all or any portion of the present bed, banks, and foreshore of the said river or haven between the points of commencement and termination of the New Cut;
 - (III.) To deepen, scour, and otherwise improve, by dredging or otherwise, the present channel of the River Witham or Boston Haven, between the Grand Sluice in the parish of Boston and the said point of commencement of the New Cut, in the several parishes and places of Boston, Skirbeck, Skirbeck-Quarter, Wyberton, and Fishtoft, in the parts of Holland, in the county of Lincoln;

together with all necessary embankments, walls, bridges, arches, culverts, ditches, drains, sluices, staunches, roads, approaches, and other works and conveniences.

5. In the execution of the works by this Act authorised the Board may make lateral deviations from the lines of such works to any extent within the limits of lateral deviation shown on the deposited plans, and vertical deviations from the levels of such works shown on the deposited sections to any extent not exceeding seven feet upwards and seven feet downwards, and to any greater extent with the consent of the owner of the land in which the deviation is intended to be made. Limits of
deviation.

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Period for
completion
of works.

6. The works authorised by this Act shall be completed within five years after the passing of this Act, and on the expiration of that period the powers granted to the Board for making those respective works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Power to
execute sub-
sidiary
works.

7. Subject to the restrictions contained in this Act, the Board are hereby authorised to execute and do the following subsidiary works and acts; that is to say,

- (i.) To connect the embankments, drains, works, roads, and approaches to be constructed under the powers of this Act with any existing public or private embankments, drains, works, and roads:
- (ii.) To stop up, cross, alter, divert, alter the level of, or otherwise interfere with, either temporarily or permanently, all public or private roads or ways, haling-paths, drains, sewers, ditches, cuts, culverts, outfalls, sluices, staunches, banks, embankments, and other works, rivers, streams, and watercourses, so far as it may be necessary to do so in executing the works by this Act authorised:
- (iii.) To preserve the waterway and sea mouth of the New Cut, and the free flow and discharge of water therefrom, by dredging or other means:
- (iv.) To deposit on the banks, sides, slopes, and foreshores of the River Witham, Boston Haven, and the New Cut, and elsewhere, soil and other materials which may be obtained in executing and forming the New Cut and improving the channel of the river, or in executing any other work by this Act authorised:
- (v.) To take from the foreshore of the River Witham and Boston Haven, and use, subject to the provisions of this Act, such soil or other materials as may be required in executing and maintaining any works by this Act authorised.

Power to
contract for
works.

8. The Board may from time to time contract with any person for the execution of any of the works by this Act authorised, and may take such bond or other security from any contractor for the due performance of his contract as they think sufficient, and may from time to time (if occasion so require) compound with any contractor for any penalty contained in any such contract, or in any bond or other security as aforesaid, or on account of any breach or non-performance of such contract, bond, or other security, for such pecuniary or other recompense as they think sufficient, or may take such other steps or proceedings in reference to the contract or to

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the contractor, or to the execution of the works comprised in the contract, as they may think proper. A.D. 1880.

9. The works by this Act authorised shall be proceeded with from Clayhole aforesaid upwards progressively, except by the express direction in writing of the Board, or of any five or more members thereof, who are hereby authorised to dispense with the progressive execution of the works where they deem it expedient so to do for the better execution of this Act. Works to be proceeded with upwards progressively.

10. The Board shall from time to time maintain the works by this Act authorised to be executed by them, and the fascine walls of or claimed to belong to the Corporation, and transferred to and vested in the Board by this Act. Maintenance of works.

11. For the purposes of this Act the Board may from time to time enter on, take, and use all or any of the lands delineated and described in the deposited plans and book of reference. Power to take lands.

12. The Board shall not construct any works on any part of the bed or shore of the New Cut hereby authorised, where and so far up the same as the tide flows and reflows, without the previous consent of the Board of Trade to be signified in writing, and then only according to such plan and under such restrictions and regulations as the Board of Trade approve of, such approval being signified as last aforesaid; and where any such work shall have been constructed with such consent as aforesaid, the Board shall not at any time alter or extend the same without obtaining, previously to making any such alteration or extension, the like consent or approval; and if any such work shall be commenced or completed without such consent and approval, the Board of Trade may abate and remove the same, and restore the site thereof to its former condition, at the costs of the Board, and the amount of such costs shall be a debt due to the Crown, and recoverable against the Board accordingly. Works below high-water mark.

13. If a work constructed by the Board on, in, over, through, or across tidal lands or a tidal water is abandoned or suffered to fall into decay, the Board of Trade may abate and remove the work, or any part of it, and restore the site thereof to its former condition, at the expense of the Board; and the amount of such expense shall be a debt due from the Board to the Crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the Board. Abatement of work abandoned or decayed.

14. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a Survey of works by Board of Trade.

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A.D. 1880. — work constructed by the Board on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the Board shall defray the expense of the survey and examination, and the amount thereof shall be a debt due from the Board to the Crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the Board.

Lights on
works.

15. The Board shall, on or near the works below high-water mark hereby authorised, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) as the Board of Trade from time to time requires or approves; and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the work when completed always maintain, exhibit, and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) for the guidance of ships as the Board of Trade from time to time requires or approves.

If the Board fail to comply in any respect with the provisions of the present section, the Board shall, for each night in which they so fail, be liable to a penalty not exceeding twenty pounds.

Corporation
to provide
lights as
directed by
Trinity
House.

16. The Corporation shall, at the outer extremity of the New Cut hereby authorised, exhibit and keep burning from sunset to sunrise such lights (if any) as the Trinity House of Deptford Strond shall from time to time direct.

Provision for
improve-
ment of
Outfall of
River Wel-
land.

17. If at any time within twenty years after the completion and opening of the New Cut the River Welland Outfall Trustees shall give notice to the Board that it is their desire to cut and form an improved channel from the present point of confluence of the Rivers Welland and Witham, as defined by the position of the Elbow Buoy as marked upon the Admiralty chart authenticated by the signature of the Right Honourable the Earl of Devon (the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred), and deposited in the Parliament Office of the House of Lords, a copy of which said plan is also deposited in the office of the Witham Outfall Board in the borough of Boston, up to, or as near to as may by them be deemed expedient, the sea termination near Ballast Beacon of the New Cut hereby authorised, and that they the said Trustees are willing to undertake the works at a time to be specified in the notice, the following provisions shall apply:

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- (a.) The said Trustees shall deliver to the Board plans and specifications of the works intended to be executed by them, and the Board shall, within three months, state to the said Trustees their approval or disapproval of or objections to the same, and any difference concerning the same shall be referred to arbitration as herein-after provided : A.D. 1880.
- (b.) When the said plans and specifications shall be either approved of by the Board or by the arbitrator, with any modifications thereof as the arbitrator shall determine, the works shall be executed by the said Trustees to the reasonable satisfaction of the engineer of the Board :
- (c.) The said Trustees shall, at intervals of six months, certify under the hand of their clerk the amount expended by them upon the works, and the Board shall, within three months after the receipt of such certificate countersigned by the engineer of the Board, pay to the said Trustees one half the amount so certified :
- (d.) When the said improved channel shall have been completed, or so far completed as the Trustees and the Board, or, if they disagree, as the arbitrator, shall deem expedient, it shall thenceforth be maintained in an efficient state by the said Trustees ; and the Board shall, at intervals of six months, repay to the said Trustees one half of the expense incurred by the said Trustees in the maintenance of the said improved channel, such expense being certified as aforesaid under the hand of the clerk to the said Trustees, and countersigned by the engineer of the Board :
- (e.) Any sum appearing to be due to the said Trustees from the Board upon such certificate shall be a debt, and may be recovered as liquidated damages in any court of competent jurisdiction :
- (f.) Any difference which may arise between the said Trustees and the Board or their respective engineers concerning the said plans or specifications, or concerning the execution of the said works, or concerning the completeness or the subsequent maintenance thereof, or the cost of such maintenance, shall be from time to time settled by an arbitrator, to be agreed on by the said Trustees and the Board, or, in default of such agreement, to be appointed by the Board of Trade upon the application of either party ; and the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration shall, so far as they are applicable, apply to any such arbitration :

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(g.) Any contribution by the Board towards the construction and maintenance of works under this section shall be deemed to be expenses incurred by them in the maintenance of the New Cut, and shall be raised and paid accordingly.

Correction
of omissions
in plans, &c.

18. If any omission, mis-statement, or erroneous description is found to have been made of any lands, or of any owners, lessees, or occupiers of any lands to the seaward of Hobhole Sluice, described or intended to be described in the deposited plans or book of reference, the Board may apply to any two justices of the peace for the parts of Holland in the county of Lincoln for the correction thereof, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by the proposed correction; and if it appears to such justices that the omission, mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, stating the particulars of the omission, mis-statement, or erroneous description, and such certificate shall be deposited with the clerk of the peace for the parts of Holland in the county of Lincoln, and shall be kept by him with the other documents to which it relates, and subject and according to the same enactments and provisions as apply to those other documents, and thereupon the deposited plans or book of reference (as the case requires) shall be deemed to be corrected according to the certificate, and the Board may enter on, take, hold, and use those lands accordingly.

Power to
acquire lands
by agree-
ment.

19. In addition to the lands which the Board are by this Act authorised to acquire compulsorily, they may from time to time purchase by agreement and hold any lands not exceeding fifty acres.

Power to
take ease-
ments by
agreement.

20. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Board any easement, right, or privilege, required for the purposes of this Act, in, over, or affecting any such lands; and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements, rights, and privileges as aforesaid respectively.

Limitation
of time for
compulsory
purchase.

21. The powers of the Board for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the date of the passing of this Act.

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22. Subject as herein-after provided, the exclusive control and management of the River Witham seaward of the Grand Sluice, as well as the New Cut and other works by this Act authorised, save and except so much of the foreshore as extends along the frontage of the public baths, gardens, and recreation ground belonging to the Corporation, and of all unembanked lands, fascine walls, foreshores, unembanked accretions, and rights of accretion from the river situated between the Grand Sluice and Hobhole, and now vested in the Corporation under any Act of Parliament or otherwise, are hereby transferred to and vested in the Board for all the estate and interest of the Corporation therein or in any part thereof respectively: Provided always, that such transfer to the Board of the estate and interest of the Corporation shall in no way prevent, curtail, or prejudice the exercise by the Corporation of any rights or powers possessed by them under the Boston Harbour Acts in relation to the bed and channel of the river, or to the making and maintaining of sea walls, or of erecting jetties, wharves, quays, lights, beacons, sea-marks, towing or hauling paths, and mooring-posts, or as to any other matters authorised by the said Acts; but the Corporation, in the exercise of all or any of such rights or powers, shall not be at liberty to construct any works in Boston Haven or the New Cut, or do any acts interfering with the making and maintenance of the New Cut, or to interfere with the free flow of the water so as to obstruct the drainage: Provided also, that the Corporation shall, with the consent in writing of the Board of Trade, but not otherwise, have the right at all times to enter on the foreshore in front of the sea banks enclosing the embanked lands of the Corporation, and to take such soil and sods as may be necessary for the repair and protection of the said banks, and to construct and carry any sewer or culvert on and across the foreshore now known as Skirbeck Church Marsh.

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Transfer to
Board of
jurisdiction
of Corpora-
tion over
portion of
River
Witham.

23. The Board are hereby empowered to remove from the channel of the River Witham between the Grand Sluice and Clayhole any piers, jetties, staging, or other obstructions to the free flow of the water, and any vessels, wreck, or other obstruction that may be prejudicial to the drainage by the River Witham, and to charge the cost of removing the same to the owner of the obstruction, or other person by whose act, default, or sufferance the obstruction is caused: Provided that this enactment shall not apply to obstructions which are above the line of half tidal level, nor to any piers, jetties, or other works heretofore erected by the Corporation under the powers of the Boston Harbour Acts, or to any vessel lying in the River Witham, the position of which has

Power to
remove ob-
structions.

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A.D. 1880. — been fixed by direction of the harbour-master: Provided also, that the removal of any such obstruction shall not interfere with the free navigation of the said channel. Compensation shall be made by the Board to any person sustaining damage by reason of the exercise by the Board of the powers of this section in relation to any matter in which such person is not himself in default, and any dispute as to the amount of compensation shall be settled by arbitration in manner provided by this Act.

Power to let herbage of lands and to dispose of surplus lands.

24. The Board may from time to time let to any person from year to year, or for any shorter period, the herbage of any lands acquired or vested in them under the provisions of this Act, and may sell or let any such lands which are not required for purposes of this Act. If the purchase money received by the Board for any lands sold under this section after the completion of the works by this Act authorised exceeds five hundred pounds, the same shall be invested in securities in which trustees are by law for the time being empowered to invest, and the income arising therefrom shall be applied by the Board to maintenance of works.

Cesser of jurisdiction of Commissioners of Sewers over lands vested in the Board.

25. The New Cut and all lands to the seaward of Hobhole Sluice acquired by or placed under the control of the Board under the powers of this Act shall be exempt from the jurisdiction of the Commissioners of Sewers of the wapentakes of Kirton and Skirbeck, in the parts of Holland, in the county of Lincoln, and of all other commissioners of sewers, bodies, or persons now exercising or having, or claiming to exercise or have, any powers or jurisdiction, for purposes of drainage, enclosure, or reclamation of lands, in or over the said lands or any part thereof.

Power to make bye-laws for preventing fouling of water, &c.

26. The Board may from time to time make byelaws for all or any of the following purposes; (namely,)

For prohibiting persons, other than the Corporation acting in the lawful exercise of any right existing at the date of the passing of this Act, from discharging sewage into the New Cut, or any river, drain, or watercourse for the time being under the jurisdiction and control of the Board (except through ancient prescriptive drains, tunnels, or culverts):

For prohibiting persons from throwing or causing or suffering to fall or flow any refuse or other offensive matter into the New Cut, or any river, drain, or watercourse, or otherwise fouling the water thereof, or throwing or suffering to fall any earth, stones, or soil into the New Cut, or any such river, drain, or watercourse:

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For prohibiting persons from cutting tunnels or drains into or through or otherwise injuring the banks, forelands, or slopes of any such river, drain, or watercourse : A.D. 1880.

For preventing netting and snaring of fish, and for regulating the mode of fishing :

For prohibiting persons from defacing marks placed by authority of the Board on any sluice or other work under the control and jurisdiction of the Board :

For prohibiting persons from injuring the stone, brick, wood, or iron work of any such sluice or other work, or creating any nuisance at or near the same respectively :

For prohibiting persons from injuring, defacing, or removing notices, placards, and bills put up by the Board, and the posts, railings, and fences connected with the works of the Board.

27. With respect to byelaws to be made by the Board under this Act, the following provisions shall have effect ; (namely,) Rules as to making bye-laws.

(i.) Nothing in this Act shall authorise the Board to make any byelaw repugnant to law, or to the provisions of the Witham Drainage Acts, or of the Black Sluice Drainage Acts, or of the Boston Harbour Acts, or any of them, or of this Act :

(ii.) All such byelaws shall be made under the corporate seal of the Board :

(iii.) Any such byelaws may impose reasonable penalties for offences against the same, not exceeding five pounds for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence forty shillings for every day during which the offence continues : Provided that a penalty not exceeding fifty pounds for each offence, with a further penalty not exceeding five pounds for every day during which the offence continues, may be imposed by such byelaws in the case of offences against any byelaw which prohibits the cutting tunnels or drains into or through or otherwise injuring the banks, forelands, or slopes of the New Cut, or any river, drain, or watercourse under the jurisdiction and control of the Board :

(iv.) All such byelaws shall be so framed as to allow of the court of summary jurisdiction before whom any penalty imposed thereby is sought to be recovered ordering part only of the maximum penalty to be paid :

(v.) Any such byelaws shall not have effect until they are allowed by the justices of the peace for the parts of Holland, in the county of Lincoln, in the quarter sessions assembled ; and such justices shall, on the request of the Board, inquire into

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any byelaws tendered to them for allowance, and allow or disallow the same as they think meet :

- (vi.) Any such byelaws shall not be allowed unless notice of intention to apply for the allowance thereof has been given by advertisement inserted by the clerk or other officer of the Board in a local newspaper circulating in the parts of Holland one month at least before the application for allowance is made :
- (vii.) Any person desiring to object to any such byelaws, on giving to the Board notice of the nature of his objection not less than ten days before the hearing of the application for allowance, may, by himself or his counsel, attorney, or agent, be heard thereon :
- (viii.) For one month at least before the hearing of any such application a copy of the proposed byelaws shall be kept as follows, at the office (if any) of the Board, and at the Witham office, Boston, and all persons may at all reasonable times inspect the copy so kept, without payment ; and the clerk to the Board shall furnish every person applying for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words copied :
- (ix.) All byelaws when allowed shall be printed, and the clerk to the Board, by whom the same are made shall deliver a printed copy thereof to every person applying for the same, on payment of such reasonable price as the Board from time to time direct, not exceeding sixpence for each copy :
- (x.) A printed copy, purporting to be signed by the clerk to the Board, of byelaws purporting to be duly made by the Board and to be allowed as aforesaid, shall be evidence of the existence and due making and allowance of such byelaws without proof of the signature of such clerk.

Power for
Corporation
to erect
lights, bea-
cons, &c.

28. The Corporation may from time to time make, erect, and maintain on either side of the New Cut such lights, beacons, sea-marks, mooring-posts, and towing or haling paths as they may deem expedient for navigation purposes : Provided that nothing in this section shall empower the Corporation to do any works which shall have the effect of impeding the free flow of water through the New Cut, or be detrimental to the drainage by the River Witham.

Saving of
navigation
rights of
Corporation.

29. All rights, powers, privileges, and jurisdiction conferred on the Corporation by the Boston Harbour Acts, or by charter, prescription, usage, or otherwise, in relation to buoys, beacons, lights, wharfage and lastage tolls, rates, and duties, and generally in relation to navigation, shall extend and apply to the New Cut on

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its completion under the powers of this Act, and may be enjoyed and exercised by the Corporation in relation thereto as freely and effectually as if the said New Cut had always formed part of the port and harbour of Boston, but such rights, powers, privileges, and jurisdiction in relation to navigation shall not be exercised so as to impede the free flow of water or to be detrimental to the drainage: Provided that, notwithstanding anything contained in any previous Act or otherwise, the River Welland Outfall Trustees shall not be liable to any share of the expense of maintaining lights, buoys, beacons, sea-marks, or other works of navigation in, upon, or with respect to the New Cut or the entrance thereto.

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CONSTITUTION OF JOINT BOARD.

30. For the execution of the purposes of this Act there shall be a Joint Board consisting of fifteen members; that is to say,

Constitution
of Joint
Board.

Seven members chosen by the Witham General Commissioners acting as such, and also as the General (Fourth District) Commissioners, from their own body, of whom two shall be commissioners of the First District, one shall be a commissioner of the Third District, one shall be a commissioner of the Fifth District, and three shall be commissioners of the Fourth District;

Five members chosen by the Black Sluice Commissioners from their own body, of whom one at least shall be an owner or occupier of lands taxable by the Black Sluice Commissioners which are within the Second District of the Witham General Commissioners, and one at least shall be an owner or occupier of lands taxable by the Black Sluice Commissioners which are within the Sixth District of the Witham General Commissioners;

Two members chosen by the Corporation from their own body; and

The Mayor of Boston for the time being:

And the Joint Board so constituted shall be a body corporate by the name of The Witham Outfall Board, having a perpetual succession and a common seal, with power to sue and be sued, and to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

31. At a meeting to be held within three months from the date of the passing of this Act, the Witham General Commissioners shall choose seven of their body, qualified as herein-before mentioned, to be members of the Board:

Appoint-
ment of first
members.

And at a meeting to be held within three months from the date of the passing of this Act, the Black Sluice Commissioners shall

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A.D. 1880. — choose five of their body, qualified as herein-before mentioned, to be members of the Board :

And at a meeting to be held within three months from the date of the passing of this Act, the Corporation shall choose two of their body to be members of the Board.

Commence-
ment and
duration of
office.

32. The members so chosen shall hold office till the third Tuesday in July one thousand eight hundred and eighty-three, and on that day they shall retire from office.

The Witham General Commissioners, the General (Fourth District) Commissioners, the Black Sluice Commissioners, and the Corporation respectively shall, at a meeting of their respective bodies to be held on some day between the last day of June and the third Tuesday in July in the year one thousand eight hundred and eighty-three, and in every subsequent third year, choose such members of their respective bodies as they are herein-before authorised to choose to be members of the Board, who shall come into office on the third Tuesday in July in the year in which they are chosen, and shall hold office till the day on which their successors come into office in pursuance of this Act.

A member of the Board may from time to time be re-chosen as a member, if qualified, but a member of the Board who ceases to be a member of the body by or from which he was chosen before the expiration of his term of office as a member of the Board shall not on that account cease to be a member of the Board, unless a majority of the whole number of the Board by resolution otherwise determine.

Members not
to be in-
terested in
contracts,
&c.

33. Any member of the Board who accepts any employment of profit under the Board, or is interested in any contract made by the Board, shall thereupon cease to be a member of the Board ; but a member shall not be deemed to be interested in a contract within the meaning of this section by reason only of his being a shareholder in a company contracting with the Board, but he shall not vote in respect of any such contract.

Disqualifica-
tion of
bankrupt
member.

34. A member of the Board who has become bankrupt, or has compounded with his creditors, or submitted his affairs to liquidation, shall cease to be a member of the Board.

Resignation
of member.

35. Any member of the Board may resign his office by notifying in writing his intention so to do to the chairman or clerk of the Board for the time being.

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36. Any casual vacancy in the Board, occurring by death, resignation, or otherwise, shall be filled up by the Commissioners or Corporation by whom the vacating member was originally chosen, within six weeks of the vacancy so occurring, or as soon thereafter as practicable; but the member so chosen shall be qualified as the vacating member was qualified, and shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred. In the event of a failure on the part of the Witham General Commissioners, the General (Fourth District) Commissioners, the Black Sluice Commissioners, or the Corporation duly to choose members of the Board in any year, the member or members whose place or places ought to have been filled up by the body so failing as aforesaid shall, if willing so to do, continue in office for a further term of three years.

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Casual vacancies in Board and provision for failure to elect.

37. A member of the Board may, by writing under his hand, from time to time appoint an agent or deputy to act in his absence at meetings of the Board for any time not exceeding three months; and an agent or deputy so appointed may, although not otherwise qualified as required by this Act, act at any such meeting in such manner and as fully to all intents and purposes as his principal might act if personally present: Provided that nothing in this section shall authorise any agent or deputy to be present or act at any meeting or on any occasion at or on which his principal is present or acting.

Power of members of Board to appoint deputies.

38. The Board may from time to time appoint fit and proper persons to be clerk, engineer, and treasurer, and may appoint or employ such other officers and servants as may be necessary for the efficient execution of this Act, and may regulate the duties and remuneration of the persons so appointed or employed.

Appointment of officers.

39. Meetings of the Board shall be held, and the proceedings thereat shall be conducted, in accordance with the rules as to meetings and proceedings contained in the First Schedule to this Act.

Meetings and proceedings of Board.

40. (1.) The constitution or any act or proceeding of the Board shall not be questioned on account of failure to choose any member or members, or any other vacancy or vacancies in their body.

Validity of proceedings of Board and minutes.

(2.) A defect in the qualification or election of any person or persons acting as a member or members of the Board shall not be deemed to vitiate any proceedings of the Board in which he or they have taken part in cases where the majority of members, parties to such proceedings, are duly entitled to act.

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(3.) Any minute made of proceedings at meetings of the Board, if signed either at the meeting of the Board at which such proceedings took place, or at the next ensuing meeting of the Board, by any person purporting for the time being to be the chairman of the meeting, shall be receivable in evidence of such proceedings in all legal proceedings, without further proof and until the contrary is proved; and every meeting of the Board, where minutes have been so made of the proceedings, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified.

Power to
enter into
agreements.

41. The Board may from time to time enter into and carry into effect any agreement with any commissioners, company, or other body intrusted with powers for the drainage, embankment, or reclamation of land for the execution or maintenance of any works which the Board are for the time being authorised to execute or maintain, so far as such works are situate within the jurisdiction of any such commissioners, company, or other body as aforesaid.

FINANCIAL AND GENERAL.

Separate
accounts of
expenses to
be kept.

42. The Board shall keep separate accounts—

- (i.) Of all moneys expended by them in the execution of the New Cut;
- (ii.) Of all moneys expended by them in executing the improvement of the channel between Hobhole Sluice and the Black Sluice;
- (iii.) Of all moneys expended by them in executing the improvement of the channel between the Black Sluice and the Grand Sluice; and
- (iv.) Of the expenses of maintenance of the above-mentioned works respectively when executed, and of any other works which the Board are for the time being authorised to maintain.

Such accounts shall annually be printed and transmitted to the Witham General Commissioners, the General (Fourth District) Commissioners, the Black Sluice Commissioners, and the Corporation, and a summary or abstract thereof shall be published once in a local newspaper circulating in the county of Lincoln. For the purpose of the provisions of this Act relating to the expenses of the execution and maintenance of works, the expression "the New Cut" includes all works seaward of Hobhole Sluice.

Liability of
Witham
Commis-
sioners and
Black Sluice

43. Subject and according to the provisions of this Act, all lands in the First, Third, and Fifth Districts, and in the Fourth District (including the Five Thousand Acre District) of the Witham General Commissioners, shall be liable to contribute to the execution

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and maintenance of all the works by this Act authorised, with the exception that lands in the Fourth District (including the Five Thousand Acre District) shall not be liable to contribute to the expenses of executing the improvement or of the maintenance of the channel of the river between the Hobhole Sluice and the Grand Sluice; and the Black Sluice Commissioners shall be liable to contribute to the expenses of the execution and maintenance of all the works by this Act authorised, except the expenses of executing the improvement or of the maintenance of the channel between the Black Sluice and the Grand Sluice as hereafter mentioned.

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—
Commis-
sioners to
contribute.

The expenses of the execution of works include in this Act the expenses of purchase of lands for such works, and (except so far as relates to the applications to owners and occupiers of lands for their consents to this Act) the costs, charges, and expenses preliminary to and of and incidental to the obtaining and passing of this Act.

44. For the purpose of obtaining payment from the Witham General Commissioners, the General (Fourth District) Commissioners, and the Black Sluice Commissioners respectively of the sums to be contributed by them under this Act, the Board shall from time to time issue their precepts (which may be in the forms in the Second Schedule to this Act, or to the like effect,) to such Commissioners respectively, requiring them to pay within a time limited by the precept the amount specified in such precept to the Board, or some person or bank appointed by them; provided—

Board to
issue pre-
cepts for
payment of
contribu-
tions.

- (i.) That every such precept shall distinguish as separate items
(a) the sums required towards the execution of the New Cut;
(b) the sums required towards the execution of the improvement of the channel between Hobhole Sluice and the Black Sluice; (c) the sums required towards the execution of the improvement of the channel between the Black Sluice and the Grand Sluice; (d) the sums required towards the maintenance of the New Cut; (e) the sums required towards the maintenance of the improvement of the channel between Hobhole Sluice and the Black Sluice; (f) the sums required towards the maintenance of the improvement of the channel between the Black Sluice and the Grand Sluice;

- (ii.) That the Witham General Commissioners, the General (Fourth District) Commissioners, and the Black Sluice Commissioners shall respectively contribute towards the execution and maintenance of the New Cut an equal amount per acre on the acreage of all lands taxable for that purpose by the said several bodies of Commissioners respectively; and

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the Witham General Commissioners and the Black Sluice Commissioners shall contribute towards the execution and maintenance of the improvement of the channel between Hobhole Sluice and the Black Sluice an equal amount per acre on the acreage of all the lands taxable by them respectively for that purpose; and the Witham General Commissioners (together with the Corporation) shall exclusively contribute to the execution and maintenance of the improvement of the channel between the Black Sluice and the Grand Sluice:

- (iii.) That the amounts to be contributed by the Black Sluice Commissioners shall, as respects all lands added to their district under any Act passed during the present session of Parliament that pay Welland drainage tax, be less per acre by the same proportion as the Welland drainage tax paid in respect of such lands bears to the tax collected by the Black Sluice Commissioners for Outfall improvement works under any Act passed during the present session of Parliament.

Compliance
with pre-
cepts by
Witham
General
Commis-
sioners and
Fourth Dis-
trict Com-
missioners.

45. The Witham General Commissioners and the General (Fourth District) Commissioners shall comply with the requisitions of any precept issued to them by the Board, by paying to the Board, or to such person or bank as the Board direct, the sums specified therein, either out of moneys borrowed by them under the authority of this Act, or out of the Outfall tax which they are by this Act authorised to raise, or partly in one way and partly in the other.

Power to
Witham
General
Commis-
sioners to
borrow on
mortgage.

46. The Witham General Commissioners may borrow at interest, on the security of the Outfall tax leviable by them under this Act, such sum or sums of money as they are required by precept to pay to the Board, not exceeding in the whole the sum of thirty-seven thousand pounds, and may mortgage the Outfall tax to secure the repayment of the money so borrowed, with interest accordingly. Sections twenty-five to twenty-nine (both inclusive) of the Witham Drainage Act, 1865, shall apply to the borrowing of money by the said Commissioners under this section as if those sections were herein re-enacted, with the substitution of "Outfall tax" for "additional acre tax," and of the sum which the said Commissioners are by this Act authorised to borrow, for the sum of fifty-five thousand pounds: Provided that any sinking fund created for the discharge of moneys borrowed under the authority of this section may be invested in any securities in which trustees are for the time being authorised by law to invest.

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Act, 1880.

47. The General (Fourth District) Commissioners may from time to time borrow at interest, on the security of the Outfall tax leviable by them under this Act, such sums of money as they are from time to time required by precept to pay to the Board, not exceeding in the whole the sum of forty-nine thousand pounds, and may mortgage the Outfall tax to secure the repayment of the money so borrowed, with interest accordingly.

A.D. 1880.

Power to
General
(Fourth
District)
Commis-
sioners to
borrow on
mortgage.

Sections 15 to 19 (both inclusive) of the Witham Drainage (Fourth District) Act, 1867, shall apply to the borrowing of money by the said Commissioners under this section, as if those sections were herein re-enacted with the substitution of "Outfall tax" for "acre taxes," and of the sum which the said Commissioners are authorised to borrow under this section for the sum of twenty thousand pounds, and with the omission of the words in section 19, "as often as they shall find it to be necessary for carrying into execution the purposes of the Witham Drainage Acts, and of this Act": Provided that any sinking fund created for the discharge of moneys borrowed under the authority of this section may be invested in any securities in which trustees are for the time being authorised by law to invest.

48. The clerk to the Witham General Commissioners shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart by the Witham General Commissioners or the General (Fourth District) Commissioners for a sinking fund under this Act, transmit to the Local Government Board a return, in such form as may be prescribed by them, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purpose to which any portion of the moneys invested for the sinking fund, and the interest thereon, has been applied during the same period, and the total amount remaining invested at the end of the year; and in the event of any wilful default in making such return the clerk shall be liable to a penalty not exceeding twenty pounds.

Annual
return to
Local
Government
Board with
respect to
sinking fund.

If it appears to the Local Government Board, by such return or otherwise, that the Witham General Commissioners or the General (Fourth District) Commissioners have failed to set apart the sum required for any sinking fund, or have applied any portion of the moneys set apart for that fund, or any interest thereof, to any purposes other than those authorised by this Act, the Local Government Board may by order direct that a sum not exceeding double

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Act, 1880.

A.D. 1880. — the amount in respect of which such default has been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus, to be obtained by the Local Government Board out of the High Court of Justice, and the provisions of this section shall, mutatis mutandis, apply to instalments.

Power to
raise Outfall
tax.

49. The lands situate in the First, Third, and Fifth Districts of the Witham General Commissioners are hereby charged for a period of thirty-five years, commencing on the sixth day of April one thousand eight hundred and eighty-one, with an additional uniform acre tax (over and above all taxes charged thereon respectively by or under the Witham Drainage Acts) of such amount, not exceeding one shilling and sixpence per statute acre in any one year, as the said Commissioners may from time to time determine; and the lands situate in the Fourth District (including the Five Thousand Acre District) are hereby charged for the period aforesaid with an additional uniform acre tax (over and above all taxes charged thereon by or under the Witham Drainage Acts) of such amount, not exceeding one shilling per statute acre in any one year, as the General (Fourth District) Commissioners may from time to time determine.

Subject to the express provisions of this Act, the said additional acre taxes (each of which is in this Act called "the Outfall tax") shall be payable on the sixth day of April in each year prospectively for the year then next ensuing, and shall be collected, levied, and recovered by the said Commissioners, their collectors, agents, and officers respectively, from the like persons and by the like ways and means as the taxes at the passing of this Act imposed on the same lands respectively by or under the Witham Drainage Acts may be collected, levied, and recovered. Nothing in this section shall affect the provisions of this Act whereby it is declared that the contributions of the Witham General Commissioners, the General (Fourth District) Commissioners, and the Black Sluice Commissioners shall be an equal amount per acre as respects all works to the execution and maintenance of which any two or more of such bodies are liable.

Power to
raise main-
tenance tax.

50. For the purpose of the maintenance of the works by this Act authorised, the lands situated in the First, Third, and Fifth Districts of the Witham General Commissioners shall, on and after the completion of the said works, be chargeable with an additional uniform acre tax (over and above all taxes charged thereon respectively by or under the Witham Drainage Acts or this Act) of such amount, not exceeding sixpence per statute acre in any one year, as

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the said Commissioners may from time to time determine, and the lands situate in the Fourth District (including the Five Thousand Acre District) shall, on and after the completion of the said works, be chargeable with an additional uniform acre tax (over and above all taxes charged thereon respectively by or under the Witham Drainage Acts or this Act) of such amount, not exceeding fourpence per statute acre in any one year, as the General (Fourth District) Commissioners may determine. A.D. 1880.

Subject to the express provisions of this Act, the said additional acre taxes (each of which is in this Act called "the maintenance tax") shall be collected, levied, and recovered by the said Commissioners, their collectors, agents, and officers respectively, from the like persons and by the like ways and means as the taxes at the passing of this Act imposed on the same lands respectively by or under the Witham Drainage Acts may be collected, levied, and recovered. Nothing in this section shall affect the provisions of this Act whereby it is declared that the contributions of the Witham General Commissioners, the General (Fourth District) Commissioners, and the Black Sluice Commissioners shall be an equal amount per acre as respects all works to the execution and maintenance of which any two or more of such bodies are liable.

51. The lands situate in the several parishes or places of Boston, Boston-East, Skirbeck, Fishtoft, and Freiston, in the parts of Holland, and so much of the lands in the parish of Sibsey, in the parts of Lindsey, as are not situate within the limits of the Fourth District of the Witham Drainage, (which lands are shown on two maps or plans coloured red, and authenticated by the signature of the Right Honourable Lyon Playfair, the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred, one of which plans is deposited in the Private Bill Office of the House of Commons, and the other of such plans is deposited in the office of the Witham Outfall Board in the borough of Boston,) are hereby declared to form part of the said Fourth District for the purposes, but only for the purposes, of this Act, and to be liable as other lands in the said district to the Outfall tax and maintenance tax leviable by the General (Fourth District) Commissioners under this Act, and the provisions of this Act and of the Witham Drainage Acts shall apply to the assessing, levying, and recovery of the said taxes accordingly. Certain lands in parishes of Boston, Boston-East, Skirbeck, Fishtoft, Freiston, and Sibsey, added to the Fourth District for purposes of taxation.

52. All money received respectively by the Witham General Commissioners and the General (Fourth District) Commissioners Application of receipts from Outfall tax.

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A.D. 1880. — in respect of the Outfall tax (not being money borrowed on the security of that tax) shall be applied by them respectively in the manner and in the order following, and not otherwise; (namely,)

- (i.) In paying the interest from time to time accruing due in respect of the money charged on the Outfall tax by way of mortgage:
- (ii.) In providing the instalments or the yearly amount of the sinking fund required in pursuance of this Act:
- (iii.) In payment of the contributions required from them towards the execution of works by the Board in pursuance of this Act:
- (iv.) In the formation of a reserve or contingent fund, not exceeding ten thousand pounds, to meet any contributions that may be required by the Board for extraordinary contingencies: Provided that the moneys carried to the credit of such fund may be from time to time invested in any securities in which trustees are for the time being authorised by law to invest; and the income arising from any such investment may, when the sum invested amounts to five thousand pounds, be applied towards the payment of contributions towards the cost of maintaining the works of the Board.

Application
of receipts
from main-
tenance tax.

53. All money received respectively by the Witham General Commissioners and the General (Fourth District) Commissioners in respect of the maintenance tax shall be applied by them respectively in payment of the contributions required from them towards the maintenance of works by the Board in pursuance of this Act.

Application
of moneys
borrowed.

54. All money borrowed by the Witham General Commissioners and the General (Fourth District) Commissioners under this Act shall be applied as follows, and not otherwise; (namely,) in the first place, in paying the costs, charges, and expenses of and incidental to the borrowing of such moneys, and of and incidental to the applications to the owners and occupiers of lands within their respective jurisdictions for their consents to this Act; and in the next place, in payment of the contributions required from them respectively by the Board in pursuance of this Act, and in paying off money borrowed by them respectively under this Act.

Separate
accounts by
Commis-
sioners.

55. The Witham General Commissioners and the General (Fourth District) Commissioners shall respectively keep separate accounts of their receipts, payments, credits, and liabilities in respect of the Outfall tax and of the maintenance tax.

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56. The Black Sluice Commissioners shall pay the contributions required from them by any precept of the Board out of any moneys in their hands which they may be under any Act for the time being in force authorised to apply to the payment of such contributions.

Compliance with precepts by the Black Sluice Commissioners.

57. Any sum mentioned in a precept addressed to the Witham General Commissioners or the General (Fourth District) Commissioners, or to the Black Sluice Commissioners, shall be a debt due from the Commissioners to whom the precept is addressed, and shall be recoverable accordingly.

Recovery of contributions.

58. The Corporation are hereby authorised and required to contribute for the purposes of this Act the sum of ten thousand pounds, and for the purpose of that contribution they may from time to time borrow and re-borrow any sums of money not exceeding in the whole the said sum of ten thousand pounds on mortgage of the surplus lands and the revenue of the real estates of the Corporation, and of the tonnage, lastage, and wharfage rates, tolls, and duties granted and made payable by the Boston Harbour Acts, or any of them, or by any other Act for the time being in force, and of the borough fund and borough rate, or of any of the said rates, tolls, and duties; and all the provisions of the Boston Harbour Acts in reference to the borrowing of money shall, with any necessary modifications, and subject to the provisions of this Act, be applicable to borrowing and re-borrowing money by the Corporation under this Act in the same manner as nearly as may be, and as effectually, as if those provisions had been re-enacted in this Act: Provided always, that any person lending money to the Corporation secured by mortgage under the provisions of this Act shall not be bound or entitled to inquire as to observance by them of any provisions of this Act, or be bound to see to the application, or be answerable for any loss, misapplication, or non-application of the money lent, or of any part thereof.

Corporation to contribute to execution of works and to borrow money.

59. All sums borrowed by the Corporation in pursuance of this section shall be repaid by them within a period of sixty years after the same were respectively borrowed, either by equal annual instalments, or by means of equal annual appropriations to a sinking fund invested in securities in which trustees are by law for the time being empowered to invest and accumulated in the way of compound interest; and any such sinking fund, or any part thereof, may be from time to time applied by the Corporation in repayment of the principal moneys borrowed: Provided, that whenever any of such principal moneys have been so paid off the Corporation shall

Money borrowed to be repaid within sixty years.

[Ch. cliii.] *River Witham Outfall Improvement* [43 & 44 VICT.]
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A.D. 1880. — thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be set apart and appropriated, a sum equal to the annual interest of the principal moneys so paid off: Provided further, that, whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding, the Corporation may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto.

Annual re-
turn to Local
Government
Board with
respect to
sinking fund.

60. The treasurer of the borough shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart by the Corporation for a sinking fund under this Act, transmit to the Local Government Board a return, in such form as may be prescribed by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purpose to which any portion of the moneys invested for the sinking fund, and the interest thereof, has been applied during the same period, and the total amount remaining invested at the end of the year, and in the event of any wilful default in making such return the treasurer shall be liable to a penalty not exceeding twenty pounds.

If it appears to the Local Government Board, by such return or otherwise, that the Corporation have failed to set apart the sum required by this Act for any sinking fund, or have applied any portion of the moneys set apart for that fund, or any interest thereof, to any purposes other than those authorised by this Act, the Local Government Board may, by order, direct that a sum not exceeding double the amount in respect of which such default has been made shall be set apart and invested as part of the sinking fund; and such order shall be enforceable by writ of Mandamus, to be obtained by the Local Government Board out of the High Court of Justice, and the provisions of this section shall, mutatis mutandis, apply to instalments.

Priority of
existing
mortgages.

61. All mortgages granted by the Corporation subsisting at the passing of this Act shall, during their continuance, have priority of charge on the security therein comprised over all mortgages granted on the like security under this Act.

62. If the Corporation at any time pay off otherwise than by instalments or a sinking fund any money borrowed by them under this Act, they may from time to time re-borrow the same, or any less amount, in manner aforesaid, and so toties quoties, but so that the total amount at any one time borrowed by them under this Act, and remaining unpaid, shall not exceed the sum of ten thousand pounds.

A.D. 1880.

Re-borrow-
ing by Cor-
poration.

63. The receipt of the treasurer for the time being of the borough shall be a good and sufficient discharge to every person who shall lend any money to the Corporation on mortgage under the powers of borrowing herein contained for so much money as shall in such receipt be expressed to be received.

Receipt of
treasurer
sufficient
discharge.

64. The said sum of ten thousand pounds shall be contributed by the Corporation to the Board at such times as contributions are required from the Witham General Commissioners and other Commissioners in pursuance of this Act, but the contribution required from the Corporation at any one time shall not exceed one tenth of the aggregate of all the contributions required from the said bodies of Commissioners at the same time; and all sums so contributed shall be applied by the Board towards the execution of the New Cut, and of the improvement of the channel of the River Witham, by this Act authorised, and for no other purpose.

Payment of
contribution
of Corpora-
tion to exe-
cution of
works.

65. On and after the completion of the works by this Act authorised, the Corporation shall be liable to contribute, from time to time, when the Witham General Commissioners and other Commissioners are required to contribute in pursuance of this Act, to the cost of their maintenance, in the proportion that their said contribution of ten thousand pounds bears to the total capital expenditure on the execution of the said works; and the Corporation may apply the tonnage, lastage, and wharfage rates, tolls, and duties granted and payable under the Boston Harbour Acts, or if those rates, tolls, and duties are insufficient, then the borough fund, borough rate, and other revenues of the Corporation, for that purpose.

Corporation
to contri-
bute to main-
tenance of
works.

66. The Board may from time to time issue precepts to the Corporation requiring payment, within a time limited by the precepts, of the sum specified therein, so that they do not exceed the proportions aforesaid, and any sums so specified shall be deemed to be a debt due from the Corporation, and be recoverable accordingly.

Precepts to
Corporation.

[Ch. cliii.] *River Witham Outfall Improvement* [43 & 44 VICT.]
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Power to
receive con-
tributions
from persons
interested in
works.

Application
of contribu-
tions by
Board.

Allowances
for attend-
ances of
members of
the Board.

Audit of
accounts of
Board.

Recovery
and applica-
tion of
penalties.
11 & 12 Vict.
c. 43.
42 & 43 Vict.
c. 49.

67. The Board may from time to time receive and apply for purposes of this Act yearly or other contributions from any commissioners, company, or other body of persons or person benefited by or interested in the works by this Act authorised.

68. All sums received by the Board under this Act shall be applied by them, in the first place, in payment of the costs, charges, and expenses preliminary to and of and incidental to the obtaining and passing of this Act, except the costs, charges, and expenses of and incidental to the applications to owners and occupiers of lands for their consents to this Act; and, secondly, in the purchase of lands necessary to be purchased for the purposes of this Act, and in the execution and maintenance of the works by this Act authorised, and in payment of the salaries of officers, and of other expenses necessarily and properly incurred in the execution of this Act.

69. Members of the Board shall be allowed for every attendance at a meeting of the Board the sum of ten shillings and sixpence, and for every attendance at a meeting of a committee of the Board the sum of one guinea.

70. (1.) Within one month before the annual meeting of the Board in every year, the accounts of the Board shall be audited by an auditor appointed by the Board, but not being a member or officer of the Board.

(2.) The auditor shall have free access to all the books, documents, and papers of the Board, and may, in relation thereto, examine any member or officer of the Board.

(3.) The auditor shall make a report to the Board on the accounts submitted to him, and shall state whether, in his opinion, they are fairly and properly kept, and shall notice specially any particulars which appear to him to require special notice, and shall state, in case he has called for any information or explanation, whether such information or explanation has been given, and whether it is satisfactory.

(4.) The report of the auditor shall be read at the annual meeting of the Board, and shall be printed, and a copy thereof transmitted to every member of the Board.

71. All offences, sums, and penalties under this Act, or any byelaw made under the authority of this Act, may be prosecuted and recovered before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Act, 1848, and the Summary Jurisdiction Act, 1879, and any Act amending the same respec-

[43 & 44 VICT.] *River Witham Outfall Improvement* [Ch. cliii.]
Act, 1880.

tively; and all penalties under this Act, or any byelaw made under the authority of this Act, shall be awarded and paid to the Board. A.D. 1880. —

72. Whereas by virtue of the one hundred and thirty-first section of the Great Northern Railway Act, 1846, the Great Northern Railway Company are lessees for a term of nine hundred and ninety-nine years of all the estate and interest of the Company of Proprietors of the Witham Navigation in the River Witham, and in the navigation thereof from the Grand Sluice in the borough of Boston to the High Bridge in the city of Lincoln; and by virtue of the said lease, and of the provisions in the said Act of 1846, the same Company are liable to maintain certain works of navigation and drainage between the said High Bridge and Grand Sluice, to preserve certain prescribed depths of water in the river between those spots, and to repair and uphold all the bridges, banks, forelands, locks, sluices, and other works of every description to which the said Company of Proprietors were liable; the said Act also imposes upon the same Company considerable pecuniary obligations, annual and otherwise, with respect to the River Witham and the navigation thereof and the drainage thereby: And whereas the loop line of the Great Northern Railway between Lincoln and Boston is mainly constructed on the banks of the Witham: Be it therefore enacted, that if at any time during the construction and in consequence of the works authorised by this Act any injury or damage shall arise to the Great Northern Railway, or to the River Witham or the navigation thereof, or to any of the works connected therewith, for the maintenance of which the Great Northern Railway Company are responsible, or if any interference shall arise in the drainage by the said river, or to the banks of the same, or the lands protected thereby, for any of which matters the Great Northern Railway Company shall, by virtue of the Great Northern Railway Act, 1846, or otherwise, be responsible, the Witham Outfall Board shall forthwith do such acts and execute such works as shall repair such injury or damage, and shall also make full compensation to the Great Northern Railway Company for such injury or damage, or the consequences thereof; and the Board shall also take such measures for the prevention of any future injury as shall be deemed necessary by some competent engineer to be chosen by them and the said Company, or if they cannot agree, then by an engineer to be appointed by the Board of Trade upon the application of either party: Provided that all works to be done by the Board under the powers of this Act affecting the River Witham, or the banks or works connected therewith, so far as the same now belong to or are under the control of or are liable to be maintained by the

Injury to the Great Northern Railway to be made good.
9 & 10 Vict. c. lxxi.

[Ch. cliii.] *River Witham Outfall Improvement* [43 & 44 Vict.]
Act, 1880.

A.D. 1880. Great Northern Railway Company, shall be done to the reasonable satisfaction of the engineer of the same Company, or in case of disagreement between him and the engineer of the said Board, then of an engineer to be appointed as aforesaid.

Continuance
of applica-
tion of pro-
visions for
protection of
Witham
drainage.

73. All the provisions for the protection of the drainage by the River Witham, and the rivers, drains, and watercourses connected therewith, and all the rights and powers of the Witham General Commissioners and the General (Fourth District) Commissioners, and all obligations and liabilities of any corporation, company, or person in relation to such drainage, shall remain in full force, notwithstanding any alteration made by virtue of this Act in any work under the jurisdiction and control of the Witham General Commissioners and the General (Fourth District) Commissioners, and shall continue to extend and apply to those works after and notwithstanding any such alteration, and in their altered state.

Continuance
of applica-
tion of pro-
visions for
protection of
Black Sluice
Drainage.

74. All the provisions for the protection of the drainage by the Black Sluice, and the rivers, drains, and watercourses connected therewith, and all rights and powers of the Black Sluice Commissioners, and all obligations and liabilities of any corporation, company, or person in relation to such drainage, shall remain in full force, notwithstanding any alterations made by virtue of this Act in the works under the jurisdiction and control of the Black Sluice Commissioners, and shall continue to extend and apply to those works after and notwithstanding any such alteration, and in their altered state.

Sunken
tunnels
under Kyme
Eau.

75. If and when the lands north of Kyme Eau, which now or hereafter shall drain through a certain tunnel under Kyme Eau called Dampford Tunnel, or through any other tunnel under Kyme Eau, into and through any part of the Black Sluice Level, shall be brought into taxation by the Black Sluice Commissioners for Witham Outfall purposes, nothing in this Act or in the Act of second George Third, chapter thirty-two, contained, shall prevent the proprietor or proprietors of the said tunnel, or any or either of such tunnels, from enlarging, lowering, or altering the same at his or their own cost and expense, subject to the reasonable approval and satisfaction of the Witham General Commissioners; and in case of dispute, the difference to be settled by arbitration in the manner provided by the Railways Clauses Consolidation Act, 1845, as to settlement of disputes by arbitration.

For the
protection of
George
Bradley and
others.

76. For the protection of George Bradley, William Wilson Macvay, and Bartol Storr, and other the owner or owners for the time being of marsh lands in the parishes of Fishtoft and Freiston, situate seaward of the existing sea bank, and now belonging

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Act, 1880.

or reputed to belong to the said George Bradley, William Wilson Macvay, and Bartol Storr, or some or one of them, all of whom are in this section included under the word owners, the following provisions shall have effect; that is to say, A.D. 1880.

(1.) The Board shall, to the reasonable satisfaction of the owners, construct and maintain through the embankment and into the New Cut a tunnel with self-closing doors, sufficient to provide for the drainage of the said lands; and any difference which may arise between the Board and the owners in any way relating to this provision shall be settled by arbitration in manner provided by this Act for the settlement of disputes between the Board and the Corporation:

(2.) The said marsh lands shall not be liable to the Outfall taxes.

77. Save as is by this Act expressly provided, nothing in this Act shall prejudice or defeat any works made or executed or to be made or executed by the Corporation in pursuance of the Boston Harbour Acts, or lessen or take away any of the powers, rights, and privileges which by the said Acts are vested in the Corporation, or alter or take away any of the rights, tolls, emoluments, liberties, franchises, or any jurisdiction which the Corporation were possessed of or had a right unto, by charter, prescription, custom, or otherwise, before the passing of this Act. Saving rights of Corporation.

78. Nothing contained in this Act shall authorise the Board to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give); neither shall anything in the said Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors. Saving rights of the Crown under management of Commissioners of Woods and Forests.

79. Nothing contained in this Act, or to be done under the authority thereof, shall in any manner affect the title to any of the subjects, or any rights, powers, or authorities, mentioned in or reserved by sections 20, 21, and 22 of the Crown Lands Act, 1866, and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors. Saving rights of Crown under 29 & 30 Vict. c. 62.

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A.D. 1880.

Saving
rights of
Crown under
management
of Board of
Trade.

80. Nothing in this Act shall authorise the Board to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Arbitration
between the
Board and
Corporation.

81. If any dispute shall at any time arise between the Board and the Corporation as to the execution or otherwise under the provisions of this Act or maintenance of works, or as to any matter relating to navigation, such dispute shall, at the request of either the Board or the Corporation, be referred to an arbitrator to be appointed by the Board of Trade on the application of the Board and the Corporation, or either of them, and the decision of such arbitrator shall in every case be binding on both parties, and the costs of every such reference, including incidental expenses, shall be in the discretion of the arbitrator. If an arbitrator dies or refuses or becomes incapable to act before he has given his decision, the Board of Trade shall appoint another arbitrator in his room, to whom all the documents relating to the arbitration shall be delivered.

Arbitration
between the
Board and
other
persons.

82. If any dispute shall at any time arise between the Board and any body of Commissioners in this Act mentioned, or any person or persons other than the Corporation, such dispute shall be settled in manner provided by the Railways Clauses Consolidation Act, 1845, and for that purpose the provisions of that Act "with respect to the settlement of disputes by arbitration" are hereby incorporated with this Act, and shall apply with any necessary modifications.

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THE FIRST SCHEDULE.

A.D. 1880.

Proceedings of Board.

The Board shall hold a meeting, to be called the annual meeting, in the month of August in every year, or in such other month as they may from time to time fix, and, subject as aforesaid, they may meet and adjourn as they think proper.

The quorum of the Board shall consist of five members.

The Board shall at their annual meeting in each year appoint a chairman of their meetings for the ensuing year.

If the chairman is not present at the time appointed for holding any meeting, or within fifteen minutes afterwards, the members present shall choose one of their number to be chairman of such meeting until the chairman shall arrive.

Every question at a meeting shall, unless otherwise expressly provided by any enactment for the time being in force, be determined by a majority of votes of the members present and voting on that question.

In case of an equal division of votes the chairman shall have a second or casting vote, except in the case of the appointment of chairman before mentioned, on which occasion the chairman shall only vote in case of an equality of votes.

The Board may from time to time appoint and dissolve committees, and may delegate to any committee so appointed such of their functions as they may think proper, and may from time to time make such regulations as to the quorum of any such committee, and otherwise for the guidance of any such committee, as they may think proper. Unless otherwise directed by regulations so made, the quorum of a committee shall consist of two members.

THE SECOND SCHEDULE.

FORMS OF PRECEPT.

I.—FORM FOR THE WITHAM GENERAL COMMISSIONERS.

River Witham Outfall Improvement Act, 1880.

In pursuance of the provisions of the above Act the Witham Outfall Board hereby require you, the Witham General Commissioners, to pay to _____, within _____ days from the date hereof, the several sums herein specified ; that is to say,

[*Local.*—153.]

C

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A.D. 1880.

Execution of Works.

- | | | | | | | | |
|---|---|---|---|---|---|----|----|
| (a.) Towards the execution of the New Cut | - | - | - | - | £ | s. | d. |
| (b.) Towards the execution of the improvement of the channel
between Hobhole Sluice and the Black Sluice | - | - | - | - | | | |
| (c.) Towards the execution of the improvement of the channel
between the Black Sluice and the Grand Sluice | - | - | - | - | | | |

Maintenance of Works.

- | | | | | | | | | |
|--|---|---|---|---|---|---|----|----|
| (d.) New Cut | - | - | - | - | - | £ | s. | d. |
| (e.) Improvement of channel between Hobhole Sluice and the
Black Sluice | - | - | - | - | - | | | |
| (f.) Improvement of channel between the Black Sluice and the
Grand Sluice | - | - | - | - | - | | | |

Dated this

day of

(Signed)

II.—FORM FOR GENERAL (FOURTH DISTRICT) COMMISSIONERS.

River Witham Outfall Improvement Act, 1880.

In pursuance of the provisions of the above Act the Witham Outfall Board hereby require you, the General (Fourth District) Commissioners, to pay to
hereof, the several sums herein specified; that is to say,

- | | | | | | | | |
|---|---|---|---|---|---|----|----|
| (a.) Towards the execution of the New Cut | - | - | - | - | £ | s. | d. |
| (b.) For maintenance of works | - | - | - | - | | | |

Dated this

day of

(Signed)

III.—FORM FOR BLACK SLUICE COMMISSIONERS.

River Witham Outfall Improvement Act, 1880.

In pursuance of the provisions of the above Act the Witham Outfall Board hereby require you, the Black Sluice Commissioners, to pay to
within days from the date hereof, the several sums herein specified; that is to say,

Execution of Works.

- | | | | | | | | |
|---|---|---|---|---|---|----|----|
| (a.) Towards the execution of the New Cut | - | - | - | - | £ | s. | d. |
| (b.) Towards the execution of the improvement of the channel
between Hobhole Sluice and the Black Sluice | - | - | - | - | | | |

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Act, 1880.

Maintenance of Works.

£ s. d. A.D. 1880. —

- (c.) New Cut - - - - -
- (d.) Improvement of channel between Hobhole Sluice and the Black Sluice - - - - -

Dated this day of
(Signed)

IV.—FORM FOR CORPORATION OF BOSTON.

River Witham Outfall Improvement Act, 1880.

In pursuance of the provisions of the above Act the Witham Outfall Board hereby require you, the Corporation of Boston, to pay to
within days from the date hereof, the several sums herein specified ; that is to say,

Execution of Works.

£ s. d.

- (a.) Towards the execution of the New Cut - - - - -
- (b.) Towards the execution of the improvement of the channel between Hobhole Sluice and the Black Sluice - - - - -
- (c.) Towards the execution of the improvement of the channel between the Black Sluice and the Grand Sluice - - - - -

Maintenance of Works.

£ s. d.

- (d.) New Cut - - - - -
- (e.) Improvement of channel between Hobhole Sluice and the Black Sluice - - - - -
- (f.) Improvement of channel between the Black Sluice and the Grand Sluice - - - - -

Dated this day of
(Signed)

