Anno ſeptimo

Georgii III. Regis.

An Act for making navigable a Brook called *Codbeck*, from the River *Swale*, to the Borough of *Thirſk*, in the County of *York*.

WHEREAS the making navigable a certain Brook called Codbeck, between the River Swale and the Borough of Thirſk, in the North Riding of the County of York, will be of great Benefit and Advantage to the ſaid Borough, and to Perſons having Lands and Eſtates in that Part of the Country, and of publick Utility: 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 Right Honourable Percy Wyndham Earl of Thomond, in the Kingdom of Ireland; the Right Honourable John Earl of Wandesford, in the Kingdom of Ireland; the Right Honourable Charles Lord Viſcount Fairfax, in the Kingdom of Ireland; the Right Honourable John Lord Viſcount Downe, in the Kingdom of Ireland; the Right Honour-

Preamble.

Commiſſioners Names.

Honourable William Lord Viſcount Gallway, in the Kingdom of Ireland; the Right Honourable George Cavendiſh, commonly called Lord George Cavendiſh; the Right Honourable Frederick Cavendiſh, commonly called Lord Frederick Cavendiſh; the Right Honourable John Cavendiſh, commonly called Lord John Cavendiſh; the Right Honourable John Manners, commonly called Marquis of Granby; the Right Honourable Hugh Percy, commonly called Earl Percy; the Right Honourable John Stewart, commonly called Lord Mount Stewart; the Right Honourable Thomas Belaſyſe, commonly called Lord Belaſyſe; the Honourable Chriſtopher Dawnay, the Honourable Marmaduke Langdale, the Honourable Thomas Robinſon, the Honourable Robert Lane, the Honourable George Cary, the Honourable Frederick Robinſon, George Perrott, One of the Barons of his Majeſty's Court of Exchequer; Sir George Armytage, Sir Job Brooke, Sir Alexander Bannerman, Sir George Caley, Sir Lawrence Dundas, Sir John Eden, Sir William Foulis, Sir Henry Charles Frankland, Sir Belingham Graham, Sir Robert Hildyard, Sir James Long, Sir James Lowther, Sir Henry Lawſon, Sir Ralph Milbank, Sir William Pennyman, Sir George Pennington, Sir William Robinſon, Sir Thomas Robinſon, Sir George Savile, Sir Brian Stapylton, Sir Savile Slingſby, Sir Marmaduke Aſty Wyvill, Sir John Webb, Baronets; Sir Fletcher Norton Knight, Sir Clifton Wintringham Knight, M.D. William Aiſlabie, Charles Allanſon, Cuthbert Allanſon Clerk, John Arderne, John Arderne junior, James Addiſon Clerk, Daniel Addiſon Clerk, James Allan of Leyburn, James Allan of Snazeholme, Richard Atkinſon, Samuel Aſhton, John Ainſley, George Addiſon, George Anniſon, Richard Ayrton, Codrington Bethell, Montagu Brook, Ralph Bell, Ralph Bell junior, Peter Bell, Simon Butterwick, John Bower, Robert Bower, Henry Bower, Francis Blackburne Clerk, Archdeacon of Cleveland; Robert Bewlay, Robert Bewlay junior, Robert Burton, Thomas Barſtow, Thomas Barſtow junior, Francis Bacon, William Berdmore Clerk, Reſidentiary of York; Tomlinſon Bunting, William Baines, Richard Bowes, Miles Barne, Philip Bendlowes, Woodifield Beckwith, John Bartlett, William Bland, Thomas Beckett, Joſeph Butler, Thomas Bramley, William Brown, John Bywell, Brunskell Clerk, George Bell, John Booth, John Buckton, Francis Buckle, John Beazon, Robert Biſhoprick, John Barker, Bland of Eaſingwold, Thomas Bentley, Walter Baldock, Hugh Bethell, William Bethell, Nathaniel Cholmley, William Cholmley, Francis Cholmeley, Chriſtopher

pher Crowe, George Crowe, Robert Cuſt, Thomas Cuſt of North Allerton, Thomas Cuſt of Danby Mill, Stephen Croft, Stephen Croft junior, Sheldon Craddock, Job Staunton Charlton, Jacob Coſtobadie Clerk, Henry Chaytor, Henry Chaytor junior, William Chaytor, Peter Conett, Thomas Cowling, Thomas Cordley, Thomas Collins Clerk, James Collins, James Collins junior, Edward Carter, Francis Crosfield, Charles Cowper Clerk, Reſidentiary of York; Charles Cowper junior, Clerk; William Cooper Clerk, William Cornforth, Thomas Cornforth, Richard Chapman, William Chapman, John Clough, Edward Clough, John Cloſe, William Clarke, Thomas Clarke, Oliver Coghill, Euſtace Caſs, Thomas Caſs, William Coates, Richard Calvert, William Wingle Carr, Anthony Cooper, Thomas Coopland, Crawford of Weſt Layton, Tindale Croſsley, Thomas Collins Clerk, John Conyears, Charles Cooper Clerk, John Carter, Thomas Duncombe, Charles Duncombe, Henry Duncombe, William Danby, Thomas Dundas, Matthew Dodſworth, William Danby junior, John Dalton, Charles Dalton Clerk, John Dealtry M. D. William Daviſon Clerk, William Dawſon, Jerom Dring, William Driffield, John Dent Clerk, John Dale Clerk, John Dupont Clerk, William Dent, George Dinſdale, Daggett of Kirkby Wiſke, Timothy Dickinſon Clerk, Frederick Dodſworth Clerk, Matthew Dixon, Anthony Dawſon, Adam Dale, Richard Dinmore, George Maſon Davy, Gregory Elſley of Mount Saint John, Gregory Elſley of Brompton, Gregory Elſley Clerk, Giles Earle, George Ewbank, George Ewbank junior. William Edmund, Thomas Eeles, Thomas Elliot, Edward Elliot, Layton Etherington Clerk, Vice Admiral Thomas Frankland, Frederick Frankland, Laton Frewen, Marmaduke Fothergill, Alexander Fothergill, Thomas Fairfax, Richard Fenton, John Fountayne D. D. Dean of York, Robert Raikes Fulthorpe, Chriſtopher Fell, Thomas Forſter, Chriſtopher Forſter, John Fawdington, William Frankland, Francis Firby Fothergill, Roger Gale, Roger Henry Gale, Thomas Gill, John Graves, John Grey Clerk, Roger Gee, Chriſtopher Goulton, Henry Goddard M. D. Thomas Gurnell, Richard Garland, Ambroſe Grey, John Henry Goodrick Clerk, John Hardcaſtle, William Hardcaſtle, Leonard Hartley, George Hartley, Leonard Hartley junior, John Harriſon, John Hutton, John Hutton junior, Henry Hewgill Clerk, Edmund Hodſhon Clerk, D'Arcy Hildyard, Peter Hammond, Peter Hammond junior, George Hammond, Jeremiah Hutchinſon, George Hutchinſon of Maunby, Ralph Hutchinſon, Thomas

Hutchinſon, Timothy Hutchinſon, William Hill, Thomas Hill, William Hodgſhon, Matthew Hornſey, John Huggate, Thomas Heddon, John Hopper, Thomas Harriſon Clerk, Mann Horsfield, George Haſſell, Talbott Haſſell, Samuel Haſſell, James Harriſon, William Horncaſtle, Peter Johnſon, William Tuffnell Jolliff, John Jackſon, Thomas Jackſon, William Janſon, Thomas Kilvington LL.D. Henry Kilvington, Richard Kitchingman Clerk, Thomas Kitchingman, John Kitching, Charles Kitching, Thomas Kay Clerk, Edward Kilvington, John Kilvington, George Kilvington, Edwin Laſcelles, Daniel Laſcelles, Edward Laſcelles, William Lawrence, William Law, Ralph Lodge, Thomas Lamplugh Clerk, George Laſcelles, Boynton Langley, Theophilus Lindſey Clerk, Samuel Lindſey, Edward Liſter, Edward Montagu, Bacon Morritt, John Sawrey Morritt, Chriſtopher Morritt, Thomas Mauliverer, John Milbank, Mark Milbank, William Martin, William Maſterman, Philemon March Clerk, Thomas Maſon, William Maſon Clerk, Precentor of York; Henry Moore, Thomas Marfitt junior, George Metcalfe, Bernard Metcalfe, Timothy Mortimer, Thomas Moon Clerk, Moiſes Clerk, Thomas Maude, Thomas Metcalfe Clerk, John Metcalfe, William Marwood, Thomas Morley, Richard Morley, Edward Meynell, Thomas Martin, Robert Moor, Luke Martin, William Norton, Fletcher Norton, Edward Norton, Captain William Norton, Thomas Nelſon Clerk, John Neſfield, John Noble Clerk, William Napier, Fountayne Wentworth Oſbaldeſton, John Oaſtler, Sampſon Oaſtler the younger, Henry Peirſe, Edward Place Clerk, Marwood Place Clerk, Edward Place Clerk, Dean of Middleham; Thomas Place of Green Hammerton; Lionel Place, Thomas Place of Middleham, John Pratt, James Pennyman, George Powlet, Edward Purchas, Robert Pigott Clerk, William Preſton, Samuel Peacock, William Peacock, William Preſt, Joſeph Pearſon, Chriſtopher Pickering, William Parker, Robert Piper Clerk, John Pulleyn, Thomas Peirſe, James Preſton, John Pick, Thomas Robinſon, William Robinſon, Amos Robinſon, Roger Robinſon, John Robinſon, Matthew Robinſon, Thomas Raper, John Raper of Bedale, William Raper of Bedale, John Raper of York, John Raper of Sinderby, William Raper of Ainderby Quernhow, Cuthbert Redſhaw, Caleb Redſhaw, Henry Reveley, William Richardſon LL.D. Thomas Richardſon, John Read, Chriſtopher Rockliffe, John Raikes Clerk, George Raper, Thomas Robſon, Raper of Holme, William Rocliffe, John Routh, Marmaduke Robinſon, Perdew Shering Rayner, James Shuttleworth,

tleworth, Thomas Stapleton, Miles Stapleton, Leonard Smelt, Simon Scroope, Turner Straubenzie, William Standiſh, Francis Smyth, Francis Smyth junior, John Strangwayes, Henry Strangwayes, John Stapleton Clerk, John Hall Stevenſon, William Stables, Thomas Swann of Bedale, Thomas Swann of York, John Swann, Thomas Salvin, Miles Staveley, Robert Shepherd, Francis Shipphard, Edward Squire, William Squire, Marmaduke Sedgwick, Robert Strickland Clerk, Richard Seymour, George Stenny, Edmund Smith, William Scurr, John Seavers, William Seavers, John Smith, William Smith, George Skepper of Malton, William Turner, Charles Turner, Roger Talbot, John Thompſon, Harry Thompſon, Beilby Thompſon, Henry Thompſon, Edward Thompſon, Charles Tancred, Francis Topham LL. D. Edward Topham, Francis Thornborough, John Talbot Clerk, Francis Trapps, Henry Tennant, Robert Thiſtlethwaite Clerk, John Tanfield, William Tindale, William Thompſon, Henry Temple, John Thornton, George Thornton, Richard Temple, Thomas Thornton, Darcy Tancred, Tindale Thompſon, John Temple, William Weddell, Charles Weddell, Thomas Weddell, Francis Wanley D. D. Dean of Ripon; Andrew Wilkinſon, Charles Wilkinſon, Andrew Wilkinſon junior, James Wilkinſon, Thomas Worſley, James Worſley Clerk, John Waſtell, Henry Waſtell Clerk, Childers Walbanke, John White, John Wind Clerk, Robert Ward, John Weatherill, Thomas Stubbs Walker, John Warcupp Clerk, Iſaac Wilſon Clerk, Iſaac Williams, Captain , Webſter, Robert Wenſley, William Wailes, John Winde Clerk, Williamſon Clerk, Chriſtopher Watſon, Alexander Whaley, John Watſon, William Whitelock, John Wardell, John Wright of Bolton, Daniel Watſon Clerk, William Whytehead, George Walker, Thomas Wilkinſon, Geoffrey Walmſley Clerk, Gilbert Waugh D. D. Henry Whytehead, Robert Warton, Richard Wilſon, Chriſtopher Wilſon, Chriſtopher Wilſon the younger, William Walbank, Thomas Yorke, John Yorke, Thomas Yorke junior, John Yarker, Luke Yarker, Robert Yates, and the Dean of York for the time being, and their Succeſſors, ſhall be, and are hereby appointed Commiſſioners for making and continuing the Navigation of the ſaid Brook from the River Swale, to the Borough of Thirſk aforeſaid, and for putting in Execution the ſeveral Powers and Authorities by this Act given and granted; and the ſaid Perſons ſo appointed Commiſſioners, or ſuch Perſon or Perſons as they, or any Five or more of them, ſhall by Writing or Writings under their Hands Their Power.

Hands and Seals, nominate or appoint their Agents, Officers, Workmen, and Servants, shall be, and are hereby impowered and authorized to make and keep navigable and passable for Barges, Boats, Lighters, and other Vessels, the said Brook from the River Swale, to the Borough of Thirsk aforesaid; and for that Purpose to cleanse, scour, open, deepen, enlarge, or straiten, the same, and to cut, dig, or raise, the Banks thereof; and to make such new Cuts, Canals, Trenches, or Passages for Water, in, upon, or through, the Lands or Grounds adjoining the said Brook, as they the said Commissioners, or any Five or more of them, shall think proper, for effecting the Purposes of this Act, be it the Ground or Soil of the King's most Excellent Majesty, His Heirs, or Successors, or of any Person or Persons, Bodies Politick, Corporate, or Collegiate whatsoever: And also to dig up, cut, remove, and take away, all Trees, Roots, Beds of Gravel or Sand, or any other Obstructions or Impediments whatsoever, which may any way hinder or prevent the said intended Navigation, either in sailing, haling, or towing of Boats, Barges, Lighters, or Vessels, with Men, Horses, or otherwise, so as to make and maintain an effectual and proper Navigation in all Places for Vessels drawing Three Feet Water: And also to build, erect, set up, and make over or in the said Brook within the Limits aforesaid, and the new Cuts, Canals, Trenches, and Passages for Water, before mentioned, or upon the Lands adjoining or near to the same, or any of them, such and so many Bridges, Sluices, Locks, Weirs, Pens for Water, Stanks, Dams, Quays, Winches, and other Engines, Posts, and Stoops, Landing-places, Wharfs, Weighing-beams, Warehouses, for the Purposes of making and preserving the Navigation only, and other Works and Conveniencies, as and where the said Commissioners, or any Five or more of them, shall think fit, and from time to time, as often as shall be thought proper and convenient, to alter, repair, increase, enlarge, and amend the same: And also to make, amend, widen, turn, alter, or enlarge, any Ways or Passages for the carrying and conveying of Goods, Commodities, or other Things, to or from the said River, and the new Cuts, Canals, Trenches, and Passages for Water, herein before mentioned; and also to carry and convey in, over, and upon, any Lands or Grounds, not being a Garden, Orchard, Park, or Paddock, Plantation, or Nursery for Trees, all Sorts of Materials for making, perfecting, improving, and finishing,

ing, the ſaid Works and Navigation, and for altering, repairing, and maintaining the ſame; and alſo to lay, work, and manufacture, the ſaid Materials on the Ground (except as aforeſaid) near to the Place or Places where the ſaid Works, or any of them, ſhall be, or are intended to be made, erected, or done; and alſo to amend, alter, or heighten, any Bridge or Bridges, as may any wiſe hinder or obſtruct the ſaid intended Navigation; and alſo to get, dig, take, and carry away, Soil, Clay, Gravel, Stone, or other Materials proper or requiſite and convenient for making, carrying on, altering, and continuing, the ſaid Works and Undertakings, in or from any Ground of any Perſon or Perſons adjoining or lying contiguous to the ſaid Brook, or the new Cuts, Canals, Trenches, or Paſſages for Water, not being the Ground whereon any Houſe ſtands, or an Orchard, Garden, Yard, Park, Paddock, planted Walk, or Avenue to a Houſe; and alſo to make, ſet out, appoint, maintain, and keep, Towing-paths, Banks, and Ways, convenient for towing and drawing with Men, Horſes, or otherwiſe, of Boats, Barges, Lighters, and other Veſſels, paſſing in, through, and upon, the ſaid Brook, or the Cuts or Canals hereby intended to be made navigable, as the ſaid Commiſſioners, or any Five or more of them, ſhall think convenient; and alſo to do and perform all other Works, Matters, and Things, which the ſaid Commiſſioners, or any Five or more of them, ſhall judge neceſſary or proper for carrying on, completing, and maintaining, the ſaid intended Navigation, and for executing the Purpoſes of this Act; they the ſaid Commiſſioners doing as little Damage as may be to and upon the Premiſſes; and firſt giving Satisfaction to the Owners and Occupiers of Lands, Tenements, or Hereditaments reſpectively, for any Damage that may happen or be occaſioned to ſuch Lands, Tenements, or Hereditaments, for or on account of the ſaid intended Navigation, as the ſaid Commiſſioners, or their Succeſſors, or any Five or more of them, ſhall, for that Purpoſe, order, adjudge, direct, or appoint, according to the Tenor and true Meaning of this Act.

Commiſſioners impowered to purchaſe Lands, and incapacitated Perſons to treat.

And be it further enacted by the Authority aforeſaid, That the ſaid Commiſſioners, or any Five or more of them, ſhall be and are hereby impowered to agree with the Owners or Proprietors of, and Perſons intereſted in, any Meſſuages, Lands, Tenements, or Hereditaments, which they the ſaid Commiſſioners, or any Five or more of them, ſhall judge neceſſary or proper to be cut, dug, altered, removed, or uſed, for the Purpoſes

of this Act, or for the Recompence to be made to ſuch Owners or Proprietors, and Perſons intereſted, for the Damage they may ſuſtain by the Execution of any of the Powers of this Act: And it ſhall be lawful for all Bodies Politick, Corporate, and Collegiate, Husbands, Guardians, Truſtees, Committees, Executors, or Adminiſtrators, for and in Behalf of their Ceſtuique Truſts, whether Infants or Iſſue unborn, Lunaticks, Ideots, or Femes Covert, and to and for all and every other Perſon and Perſons whatſoever, who are or ſhall be ſeized or poſſeſſed of, or intereſted in, any ſuch Meſſuages, Lands, Tenements, or Hereditaments, at the Option of the ſaid Commiſſioners, or any Five or more of them, either to demiſe or leaſe the ſame, or any Part thereof, for any Term or Number of Years, at a certain yearly Rent, or otherwiſe to ſell and convey the Inheritance in Fee-ſimple of all or any ſuch Meſſuages, Lands, or Hereditaments, unto the ſaid Commiſſioners, or any Five or more of them, or to ſuch Perſon or Perſons as they, or any Five or more of them, ſhall nominate and appoint, or to agree with the ſaid Commiſſioners, or any Five or more of them, for any Recompence to be made for the Damage which may be done to any ſuch Meſſuages, Lands, Tenements, or Hereditaments, by the Execution of any of the Powers of this Act; and that all ſuch Contracts, Agreements, Bargains, Sales, Leaſes, and Conveyances, ſhall be good and valid in the Law to all Intents and Purpoſes, not only to convey all the Eſtate, Right, Title, and Intereſt, of the Perſon and Perſons conveying, but alſo to convey all the Eſtate, Right, Title, Intereſt, Uſe, Property, Claim, and Demand whatſoever, of their ſeveral reſpective Ceſtuique Truſts, whether Infants or Iſſue unborn, Lunaticks, Ideots, Femes Covert, or other Perſon or Perſons whatſoever, and all claiming, or to claim, by, from, or under, them; any Law, Statute, Uſage, or any other Matter or Thing, to the contrary thereof in any wiſe notwithſtanding: And that all Perſons ſo agreeing, demiſing, leaſing, or conveying as aforeſaid, are and ſhall be indemnified for what they ſhall do by virtue and in purſuance of this Act; and the ſaid Commiſſioners, or any Five or more of them, may alſo adjuſt what Proportion of the annual Rent or Sum in Groſs ſo agreed to be paid ſhall be allowed to any Tenant or other Perſon having a particular Eſtate, Term, or Intereſt, in any of the Premiſes; and that all ſuch Leaſes, Sales, and Conveyances, ſo to be made as aforeſaid, ſhall be inrolled by the Clerk of the Peace

for

for the North Riding of the said County of York; and true Copies of the same without Stamps, signed by the Clerk of the Peace for the time being, shall be deemed and taken to be good Evidence thereof in all Courts whatsoever.

Persons neglecting to treat for the Sale of Lands;

And be it further enacted by the Authority aforesaid, That if any such Bodies Politick, Corporate, or Collegiate, or any Person or Persons whatsoever, shall, for the Space of Thirty Days next after Notice in Writing given to the principal Officer or Officers of such Bodies Politick, Corporate, or Collegiate, or to such Person or Persons respectively, or to the Tenant or Tenants in Possession of the Lands, Tenements, or Hereditaments, intended to be cut, digged, altered, removed, or used as aforesaid, or left at the Dwelling-house or Houses, or Place or Places of Abode, of such principal Officer or Officers, or such Person or Persons, or of such Tenant or Tenants as aforesaid, shall neglect or refuse to treat, or shall not agree with the said Commissioners, or any Five or more of them, or by reason of Absence shall be prevented from treating touching the Matters aforesaid (except such Absence shall be occasioned by his or their necessary Attendance upon either House of Parliament) then, and in every such Case, the said Commissioners, or any Five or more of them, shall and may, and they are hereby authorized and impowered, from time to time, to issue a Warrant or Warrants under their Hands and Seals, directed to the Sheriff of the County of York for the time being, except such Sheriff shall happen to be interested in the Matter in Question, or any ways related to any of the Parties interested or concerned therein; in which Case such Warrant shall be directed to One of the Coroners of the said North Riding, commanding such Sheriff or Coroner respectively, to impanel, summon, and return a Jury; and the said Sheriff or Coroner respectively, to whom the said Warrant or Warrants shall be directed, is hereby required accordingly to impanel, summon, and return a Jury of Twenty four able and sufficient Men, qualified according to the Laws and Statutes of this Realm, to be returned for Trials of Issues joined in his Majesty's Courts at Westminster, to appear before the said Commissioners, or any Five or more of them, at such Time and Place as by such Warrant or Warrants shall be directed or appointed, not being less than Ten Days after such Warrant shall be served upon the said Sheriff or Coroner respectively, or more than Twenty Days after such Service, upon Pain

Commissioners may issue their Warrant to Sheriff, &c. to impanel a Jury.

to

to forfeit for every Default for not making ſuch Return Twenty Pounds, to be ſued for and recovered in the Manner herein after directed; and alſo to return in Iſſues upon every Perſon ſo impanelled and returned not appearing, contrary to the true Intent and Meaning of this Act, the Sum of Forty Shillings, which ſhall be levied upon the Goods and Chattles of the Perſon not appearing as aforeſaid, by Warrant or Warrants under the Hands and Seals of the ſaid Commiſſioners, or any Five or more of them; and in caſe a ſufficient Number of Jurymen ſhall not appear, the ſaid Sheriff or Coroner ſhall return other honeſt and indifferent Men of the Standers-by, or that can be ſpeedily procured to attend that Service, being ſo qualified as aforeſaid, to make up the ſaid Jury to the Number of Twelve; and all Parties concerned ſhall and may have their lawful Challenges againſt any of the ſaid Jurymen; and the ſaid Commiſſioners, or any Five or more of them, are hereby impowered and required, by Warrant or Warrants under their Hands and Seals, from time to time, as Occaſion ſhall require, to ſummon and call before them all and every ſuch Perſon and Perſons as ſhall be thought proper or neceſſary to be examined as Witneſſes by the ſaid Commiſſioners, or any Five or more of them, or any of the Parties intereſted, touching the Matters in Queſtion; and the ſaid Commiſſioners, or any Five or more of them, ſhall and may, in caſe they think the ſame proper, or ſhall be required ſo to do by any Perſon or Perſons intereſted, order and authorize the ſaid Jury, or any Six or more of them, to view the Place or Places, or Matters in Queſtion; which Jury upon their Oath, to be adminiſtered by the ſaid Commiſſioners, or any Two or more of them (and which Oath, as alſo the Oaths to ſuch Perſon or Perſons as ſhall be called upon to give Evidence, the ſaid Commiſſioners, or any Two or more of them, are hereby impowered to adminiſter) ſhall enquire of, aſſeſs, and aſcertain, ſuch Damages and Recompence as they ſhall adjudge fit to be awarded to the Owners and Occupiers of, and Perſons intereſted reſpectively in, any ſuch Lands, Tenements, or Hereditaments, or any Part thereof; and the ſaid Commiſſioners, or any Five or more of them, ſhall give Judgement for ſuch Damages and Recompence ſo to be aſſeſſed by ſuch Jury; which ſaid Verdict, and the Judgement thereupon declared or pronounced by the ſaid Commiſſioners, or any Five or more of them, and the Value and Recompence ſo aſſeſſed (Notice in Writing being firſt given as aforeſaid of their Meeting, at leaſt Four-

Jurors may be challenged.

Witneſſes may be ſummoned, and examined upon Oath.

Verdict of the Jury to be final.

Fourteen Days before ſuch Meeting, to the Parties concerned, or left at their Dwelling-houſes or uſual Places of Abode, or with the Tenant or Occupier of the Premiſſes, or left at his or her uſual Place of Abode) ſhall be binding and concluſive to all Intents and Purpoſes, againſt all and every Party or Parties, their Heirs, Succeſſors, Executors, Adminiſtrators, or Aſſigns, and all others claiming any Eſtate, Right, Title, or Intereſt, in the ſame Lands, Tenements, or Hereditaments, or any Thing thereunto belonging or appertaining, in Poſſeſſion, Reverſion, Remainder, or Expectancy, or otherwiſe, as well Bodies Politick, Corporate, and Collegiate, Infants, Ideots, Lunaticks, Femes Covert, Tenants in Tail, as others, and their reſpective Heirs, Succeſſors, Executors, and Adminiſtrators, and all claiming by, from, or under him, her, them, or any of them.

How the Value of Lord *Egremont's* Lands ſhall be aſcertained.

Provided always, and be it further enacted by the Authority aforeſaid, That the Value of all ſuch Lands, Tenements, or Hereditaments, of the Earl of Egremont, which ſhall be made uſe of for the Purpoſes of the ſaid Navigation, ſhall be aſcertained by Robert Bewlay of the City of York, Gentleman, upon Notice in Writing given to him for that Purpoſe under the Hands of the ſaid Commiſſioners, or any Five or more of them; and in caſe he ſhall die, or refuſe or neglect to attend, and to make ſuch Valuation, for the Space of Two Months after ſuch Notice given, and to deliver the ſame to the ſaid Commiſſioners, or any Five or more of them, or to their Clerk or Treaſurer, then the ſame ſhall be aſcertained by John Cleaver of Caſtle Howard, in the ſaid County of York, Gentleman, upon the like Notice to be given to him; and in caſe he ſhall die, or refuſe or neglect to attend, and to make ſuch Valuation, for the Space of Two Months next after ſuch Notice given to him for that Purpoſe, and to deliver the ſame to the ſaid Commiſſioners, or any Five or more of them, or to their Clerk or Treaſurer, then the ſame ſhall be aſcertained by ſome Perſon to be appointed by the ſaid Earl, his Guardians or Guardian, Heirs or Aſſigns, to be approved of by the ſaid Commiſſioners, or any Five or more of them, at One of their publick Meetings, within Three Months next after the Death or Refuſal of the ſaid John Cleaver; and in caſe the ſame ſhall not be accompliſhed within that Time, then the Value thereof ſhall be aſcertained by a Jury, in ſuch Manner, as the Value of the other Lands are to be aſcertained, which

ſhall or may be made uſe of for the Purpoſes of this Act.

How the Purchaſe-money for particular Lands is to be paid.

And be it further enacted by the Authority aforeſaid, That all Sums of Money which are to be paid to all Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Truſt, Executors, Adminiſtrators, Husbands, Guardians, Committees, or other Truſtees whatſoever, for or on Behalf of any Infants, Lunaticks, Ideots, Femes Covert, or other Ceſtuique Truſts, or any other Perſon or Perſons whoſe Lands are limited in Strict Settlement for the Purchaſe or Exchange of any Lands or Grounds aforeſaid, ſhall, in caſe the ſame exceed the Sum of Twenty Pounds, by ſuch Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Truſt, Executors, Adminiſtrators, Husbands, Guardians, Committees, or other Truſtees, Perſon or Perſons ſeiſed of Lands or Grounds ſo limited in Strict Settlement, be laid out as ſoon as conveniently may be in the Purchaſe of Lands, Tenements, and Hereditaments, in Fee-ſimple, and conveyed to or to the Uſe of ſuch Bodies Politick, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Truſt, Executors, Adminiſtrators, Husbands, Guardians, Committees, or other Truſtees, or to or for ſuch other Perſon or Perſons, and for ſuch Eſtates, and to, for, upon, and ſubject to ſuch Uſes, Truſts, Limitations, Remainders, and Contingencies, as the Meſſuages, Lands, and Grounds, for or in reſpect whereof ſuch Purchaſe-monies or Monies received in Exchange ſhall be paid as aforeſaid, were limited, ſettled, and aſſured, at the Time ſuch Purchaſe-monies or Monies received in Exchange were ſo agreed for, aſſeſſed, or aſcertained reſpectively as aforeſaid, or to any ſuch Uſes as ſhall be then exiſting and capable of taking Effect; the Expence of ſuch Conveyances and Settlements (other than thoſe which concern any Purchaſe or Exchange between any of the reſpective Land Owners as aforeſaid) to be paid by the ſaid reſpective Commiſſioners, or any Seven or more of them, out of the Monies to ariſe by virtue of this Act; and, in the mean Time, and until ſuch Purchaſe and Purchaſes ſhall be made, the ſaid Monies ſhall be placed out in ſome of the publick Funds, or on Government or Real Securities, in the Names of Two or more Perſons, the One to be nominated by the Party or Parties intereſted therein, and the other by the ſaid Commiſſioners reſpectively, or any Seven or more of them; and the Intereſt ariſing or to be produced from

ſuch Funds or Securities, and alſo the annual Rent for ſuch Grounds, Tenements, or Hereditaments, where a Rent ſhall be fixed upon as aforeſaid, ſhall be a Rent-charge upon the reſpective Tolls and Duties hereby authorized to be taken by the ſaid reſpective Commiſſioners, or any Seven or more of them, and ſhall be paid to ſuch Perſon or Perſons reſpectively as would for the time being be intitled to the Rents and Profits of ſuch Lands, Tenements, and Hereditaments, ſo to be purchaſed, in caſe the ſame were purchaſed and ſettled purſuant to the Tenor and true Meaning of this Act.

Commiſſioners may ſell or exchange any Lands which they do not make uſe of for the Navigation.

And whereas it may happen that the Commiſſioners may be poſſeſſed of more Lands than may be uſed for the Purpoſe of compleating the ſaid Navigation, be it therefore enacted by the Authority aforeſaid, That in caſe the ſaid Commiſſioners ſhall become poſſeſſed of any Lands which they ſhall not have Occaſion to make uſe of for the Purpoſes of the ſaid Navigation, it ſhall and may be lawful for the ſaid Commiſſioners, or any Seven or more of them, to ſell and convey any ſuch Lands, or any Part or Parts thereof, to any Perſon or Perſons whoſe Lands adjoin or lie near thereto, for the beſt Price that can be gotten for the ſame; or to exchange all ſuch Lands, or any Part or Parts thereof, with any ſuch Perſon or Perſons for any of his or their Lands, which the ſaid Commiſſioners, or any Seven or more of them, ſhall think fit to become poſſeſſed of for the Purpoſes of making the ſaid Navigation; and all ſuch Sales and Exchanges ſo to be made ſhall be good and effectual in the Law to all Intents and Purpoſes whatſoever; and all Money ariſing by any ſuch Sales, or in conſequence of any ſuch Exchanges, ſhall be applied for the Purpoſes of this Act, and to no other Purpoſe whatſoever.

Qualification of Commiſſioners.

Provided always, and be it further enacted, That the ſaid Commiſſioners, before they take upon themſelves the Execution of any of the Powers or Authorities hereby given to them (other than adminiſtering the Oath following to One another, which they hereby reſpectively have Power to adminiſter to one another) ſhall take the following Oath; videlicet,

Commiſſioners Oath.

I *A. B.* do ſwear, That I will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the beſt of my Skill and Knowledge, execute and perform all and every the Powers and Authorities as a Commiſſioner appointed in purſuance of an Act made in the Seventh Year of the Reign of His Majeſty King *George*

George the Third, intituled, *An Act for making navigable a certain Brook called* Codbeck, *from the River* Swale *to the Borough of* Thirſk, *in the North Riding of the County of* York.

So help me GOD.

Which Oath the ſaid Commiſſioners, or any One or more of them, are hereby authorized and impowered to adminiſter at their Firſt Meeting, or at any ſubſequent Meetings to be held in purſuance of this Act.

Penalty on Witneſſes and Jurymen refuſing to be ſworn.

Provided alſo, and be it enacted by the Authority aforeſaid, That if any Perſon or Perſons ſummoned as aforeſaid to give Evidence, ſhall neglect or refuſe to appear at ſuch Time or Times, Place or Places, as ſhall be appointed in the Warrant or Warrants granted by the ſaid Commiſſioners, or any Five or more of them, for that Purpoſe, or appearing ſhall refuſe to be ſworn or examined by, or give Evidence before the ſaid Commiſſioners; or if any Perſon ſummoned as a Juryman as aforeſaid, ſhall, after his Appearance refuſe to be ſworn, or being ſo ſworn refuſe to give, or not give his Verdict, or in any other Manner wilfully neglect his Duty in the Premiſſes, contrary to the true Intent and Meaning of this Act, every Perſon ſo offending, having no reaſonable Excuſe to be allowed by the ſaid Commiſſioners, or any Five or more of them, ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Five Pounds; to be levied by Diſtreſs and Sale of the Goods and Chattles of the Perſon or Perſons ſo offending, by Warrant or Warrants under the Hands and Seals of the ſaid acting Commiſſioners, or any Five or more of them, returning the Overplus to the Owner thereof, after ſuch Penalty, and the Charges of ſuch Diſtreſs and Sale are deducted.

Commiſſioners Decrees to be filed in the Regiſter Office.

And be it further enacted by the Authority aforeſaid, That the ſaid Verdicts and Judgements ſhall be ſet down in Writing under the Hands and Seals of the Commiſſioners acting in the Premiſſes, or any Five or more of them; and the ſame ſhall be inrolled in the public Regiſter Office kept at North Allerton, for the regiſtering Deeds and Conveyances of the ſaid North Riding of the ſaid County of York; and the ſame, or true Copies thereof, ſhall be taken, adjudged, and deemed good and ſufficient Evidence and Proof in any Court of Law or Equity whatſoever; and all Perſons may have Recourſe to the ſame gratis at all convenient Times, and may take Copies thereof, paying for every Copy not exceeding Seventy two Words, the Sum of Two Pence,

and

and ſo proportionably for any greater or leſſer Number of Words.

Satisfaction being made or tendered, the Commiſſioners may enter and proceed in the Works.

And it is hereby further enacted, That upon Payment of the Sum or Sums ſo agreed on, contracted for, or aſſeſſed and adjudged for Damages as aforeſaid, to the Parties concerned, or for the Purchaſe of any ſuch Lands, Tenements, or Hereditaments, or legal Tender thereof made to them reſpectively (which Sum or Sums of Money the ſaid Commiſſioners, or any Five or more of them, are hereby authorized to pay out of the Monies to be raiſed by virtue of this Act) or in caſe any ſuch Parties cannot be met with, or ſhall refuſe to accept the ſame, then upon Payment of ſuch Sum into the Hands of ſuch Perſon or Perſons as the ſaid Commiſſioners, or any Five or more of them, ſhall under their Hands in Writing appoint, for the Uſe of the Parties intereſted as aforeſaid, it ſhall and may be lawful to and for the ſaid Commiſſioners, and their Agents, Workmen, and Servants, to enter upon, remove, dig, cut, or uſe, ſuch or ſo much of the ſaid Lands, Tenements, or Hereditaments, for which ſuch Satisfaction ſhall have been contracted for, agreed, or aſſeſſed, or decreed as aforeſaid, and thereon to make, erect, and do any Works, Matters, or Things, for the effecting and carrying on the ſaid intended Navigation, and for the ſupporting and maintaining the ſame, or for executing any of the Powers of this Act, as the ſaid Commiſſioners, or any Five or more of them, ſhall think requiſite; and this Act ſhall be ſufficient to indemnify as well the ſaid Commiſſioners as all Perſons employed or authorized by them, againſt the ſaid Owners, Occupiers, or other Perſons intereſted, their Heirs, Succeſſors, Executors, Adminiſtrators, and Aſſigns, and againſt all and every other Perſon and Perſons, to all Intents and Purpoſes whatſoever.

Commiſſioners may take a Survey without previous Satisfaction made.

Provided always, and be it further enacted by the Authority aforeſaid, That it ſhall be lawful for the ſaid Commiſſioners, or any Five or more of them, or ſuch Perſon or Perſons as they or any Five or more of them ſhall appoint, without any previous Payment, or Tender of Recompence, to enter upon, and take a Survey and Level of, and to mark out, any Lands, Tenements, or Hereditaments, which they the ſaid Commiſſioners, or any Seven or more of them, ſhall think neceſſary to be uſed for any of the Purpoſes of this Act, doing thereby as little Damage as may be, and giving Forty eight Hours Notice as aforeſaid, at the leaſt, of ſuch Entry, to the reſpective Owners or Occupiers of ſuch Lands, Te-

nements, or Hereditaments, and making Satisfaction as ſoon as may be for all Damages which ſhall be thereby occaſioned, in caſe ſuch Damages exceed the Sum of Six Pence.

Satisfaction for future Damages.

And be it further enacted by the Authority aforeſaid, That if any Perſon or Perſons, Bodies Politick, Corporate, or Collegiate, at any Time after the ſaid Commiſſioners, or any Perſon or Perſons employed or authorized by them, ſhall have begun to carry this Act into Execution for making the ſaid Part of the ſaid Brook navigable, or ſhall have completed the ſame, ſhall happen to ſuſtain any Damages or Injury in his, her, or their Lands, Grounds, Fences, Bridges, or Tenements, by any Act, Neglect, or Default of the ſaid Commiſſioners, or of their Agents, Workmen, or Servants, or by reaſon of any Alteration which ſhall be made by them, or any or either of them, on the ſaid Brook, Cuts, Canals, or Works, to be made by virtue of this Act, for which they ſhall have had no Recompence or Satisfaction, or for which no Recompence or Satisfaction is hereby otherwiſe provided; then, and in every ſuch Caſe, if the ſaid Commiſſioners, or any Five or more of them, and the Parties by whom ſuch Damages ſhall be ſuſtained, ſhall not agree touching ſuch Damages, the ſaid Commiſſioners, or any Five or more of them, ſhall enquire of, and aſcertain, ſuch Damages, by a Jury to be impanelled and returned as aforeſaid, and give Judgement for the Party or Parties aggrieved, and record the ſame accordingly, in the very ſame Manner and Form as the Damages and Recompences are hereby appointed to be aſſeſſed and adjudged for any Lands, Tenements, Hereditaments, and Premiſſes, which ſhall in any ways be made uſe of, cut, or damnified, in making navigable the ſaid Brook as aforeſaid: And in caſe the ſaid Commiſſioners, or any Five or more of them, ſhall not (being thereunto required) ſatisfy and recompenſe ſuch Damage or Injury as ſhall be ſo aſſeſſed and ſettled as aforeſaid, within Twenty Days after ſuch Requeſt made; it ſhall and may be lawful for the Perſon or Perſons aggrieved, to appoint One or more Perſon or Perſons to receive the Rates and Duties to ariſe by virtue of this Act, and thereout to pay all ſuch Damages ſo to be aſſeſſed and ſettled as aforeſaid; and the Money to be received by ſuch Receiver or Receivers ſhall, and is hereby declared to be, as ſo much Money received to the Uſe of ſuch Perſon or Perſons receiving Damage or Injury as aforeſaid, in Order and Courſe ſucceſſively as ſuch Determinations

terminations ſhall be in Priority of Time; and after ſuch Damages, ſo ſettled and aſſeſſed as aforeſaid, ſhall be paid and ſatisfied, the Power and Authority of ſuch Receiver or Receivers for the Purpoſes laſt-mentioned ſhall ceaſe and determine; any thing herein contained to the contrary notwithſtanding.

Commiſſioners to pay Coſts, if Jury give larger Damages than offered.

And be it further enacted by the Authority aforeſaid, That in all Caſes where any Verdict ſhall be given for a greater Sum or Recompence than ſhall have been offered by or on the Behalf of the ſaid Commiſſioners, or any Five or more of them, before the ſummoning of any ſuch Jury, for or in reſpect of any ſuch Lands, Tenements, Hereditaments, or Damages as aforeſaid, that then all the Expences of ſummoning and maintaining ſuch Jury and the Witneſſes, and of taking ſuch Inqueſt, ſhall be defrayed by the ſaid Commiſſioners, or any Five or more of them, out of the Monies to ariſe by virtue of this Act; but if any Verdict ſhall be given for no more or a leſs Sum than ſhall have been ſo previouſly offered by or on the Behalf of the ſaid Commiſſioners, or any Five or more of them; then, and in every ſuch Caſe, ſuch Expences (to be ſettled by any Two of his Majeſty's Juſtices of the Peace for the ſaid North Riding of the County of York) ſhall be defrayed by the Owners of, or Perſons intereſted in, the Lands, Tenements, or Hereditaments, in Queſtion; and the Expences ſo ſettled and aſcertained ſhall be deducted and taken out of the Monies ſo aſſeſſed and adjudged; and the Payment or Tender of the Remainder of ſuch Monies ſhall be deemed, within the Intent and Meaning of this Act, to be a full Satisfaction for ſuch Lands, Tenements, Hereditaments, or Damages reſpectively.

On Death, &c. of Commiſſioners, others to be choſen.

And be it further enacted by the Authority aforeſaid, That when any of the ſaid Commiſſioners ſhall die, or refuſe to act, then, and ſo often as it ſhall ſo happen, any Five or more of the ſurviving or remaining Commiſſioners may appoint a Meeting of Commiſſioners at the ſaid Borough of Thirſk, for the Election of One or more new Commiſſioner or Commiſſioners, as the Caſe ſhall require, to ſupply the Place or Places of the Perſon or Perſons ſo dying or refuſing to act, and ſhall give Notice of the Time and Place of ſuch Meeting or Meetings, in One of the York News Papers, and by affixing Notices in Writing upon the Market Croſs of Thirſk, in the ſaid North Riding of the County of York, Fourteen Days before the Time of ſuch Meeting: And in caſe there ſhall be Eleven or more of the ſaid Commiſſioners aſſembled together, at the Time and Place

to be appointed for ſuch Meeting, they ſhall and may proceed to elect One or more new Commiſſioner or Commiſſioners, in lieu of ſuch of the ſaid Commiſſioners as ſhall be dead, or refuſe to act; and the Perſon or Perſons who ſhall be ſo choſen and appointed by the major Part of the ſaid Commiſſioners then preſent, by an Inſtrument in Writing under their Hands, ſhall from thenceforth be and act as a Commiſſioner or Commiſſioners, and ſhall have the ſame Power and Authority, in all Things relating to the Execution of this Act, as if he or they had been expreſsly named in, and appointed by, this Act.

Qualification of Commiſſioners.

And be it further enacted by the Authority aforeſaid, That no Perſon ſhall ſit or act as a Commiſſioner in any Caſe where he ſhall be in any wiſe directly or indirectly intereſted or concerned in the Matter or Matters in Queſtion, or be qualified or capable of acting as a Commiſſioner by virtue of this Act, who ſhall not be in his own Right, or in the Right of his Wife, in the actual Poſſeſſion and Enjoyment, or Receipt of the Rents and Profits of Lands, Tenements, or Hereditaments, of the clear yearly Value of One hundred Pounds, beyond Repriſes; or ſhall be Heir Apparent of ſome Perſon having an Eſtate of the yearly Value of Three hundred Pounds; or poſſeſſed of a Perſonal Eſtate to the Amount or Value of Two thouſand Pounds: And in caſe any Perſon ſhall ſit or act, being ſo intereſted, or if any Perſon, not being qualified as aforeſaid, ſhall nevertheleſs preſume to act, every ſuch Perſon ſhall, for every ſuch Offence, forfeit and pay the Sum of Fifty Pounds, to be recovered, with full Coſts of Suit, by any Perſon or Perſons who ſhall ſue or proſecute for the ſame, by Action of Debt, Bill, Plaint, or Information, in any of His Majeſty's Courts of Record at Weſtminſter, wherein no Eſſoin, Protection, or Wager of Law, or more than One Imparlance, ſhall be allowed; and upon any ſuch Suit or Proſecution, the Proof of ſuch Qualification ſhall lie upon, and be made out by, every ſuch Commiſſioner ſo to be ſued or proſecuted.

Penalty on acting if not qualified.

Commiſſioners may appoint Toll-gatherers.

And it is hereby further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners, or ſuch Perſon or Perſons as they, or any Seven or more of them, by any Writing under their Hands, ſhall nominate and appoint for that Purpoſe, from time to time, and at all Times hereafter, and at ſuch Place or Places as the ſaid Commiſſioners, or any Seven or more of them, ſhall appoint for that Purpoſe, to aſk, demand, recover, and receive, ſuch Sum and Sums of Money,

Rates,

Rates, and Duties, for the Passage of Boats, Barges, Lighters, and other Vessels, upon the said Brook, Cuts, and Canals, hereby intended to be made navigable, as shall be, from time to time, ascertained and settled by the said Commissioners, or any Seven or more of them, not exceeding the several Rates and Duties herein after-mentioned; that is to say,

For every Ton of Coals, Cinders, Lime, and Lime Stone, or other Stone, Slate, Gravel, and Manure, carried or conveyed upon the said Brook, Cuts, or Canals, from the Junction of the said Brook and the River Swale, to the Borough of Thirsk; or from the said Borough of Thirsk, to the said River Swale; the Sum of One Shilling and Six Pence, and so in Proportion for a greater or less Quantity than a Ton. The Tolls.

And for every Ton of Butter, and all other Goods, Wares, Merchandizes, and Commodities whatsoever, not before specified, carried or conveyed upon the said Brook, Cuts, or Canals aforesaid, for the whole Space or Distance aforesaid, the Sum of Two Shillings and Six Pence; and so in Proportion for a greater or less Quantity than a Ton.

And for every Ton of Coals, Lime, Cinders, Lime Stone, or other Stone, Slate, Gravel, or Manure, Goods, Wares, Merchandizes, and Commodities, carried or conveyed upon the said Brook, Cuts, or Canals, for any less Space or Distance than as aforesaid, any Sum or Sums not exceeding such Proportion of the said Tolls, Rates, and Duties, as such Space or Distance shall bear to the said Distance, from the Junction of the said Brook and Swale to the Borough of Thirsk, to be settled by the said Commissioners, or any Five or more of them.

And in case of Refusal, Neglect, or Denial of Payment, on Demand, of such Rates and Duties, Sum or Sums of Money, as shall be, from time to time, appointed by the said Commissioners, or any Seven or more of them, to be paid as aforesaid, or any Part thereof, the said Commissioners, or any Five or more of them, in the Name of their Treasurer or Clerk, shall or may sue for the same by Action of Debt, or upon the Case, in any Court of Record; or it shall be lawful for the Collector or Collectors of such Rates and Duties to stop, seize, and detain, any Goods or Vessels, for which the same ought to be paid, until he or they shall be satisfied and paid the same. Tolls to be levied by Distress and Sale.

Particular Exemptions from Toll.

Provided always, and be it further enacted and declared, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to the demanding, recovering, or receiving, any Sum or Sums of Money, Tolls, Rates, or Duties, for any Goods, Produce of the Lands, and other Things, to be landed from or put on Board of any Boats, Barges, Lighters, or other Veſſels, upon the ſaid Brook, which ſhall be carried between the River Swale and Dalton Bridge only, for the Uſe and Conſumption only of the ſaid Earl, his Heirs, or Aſſigns, or his or their Leſſees, Tenants, Meſſuages, Buildings, Cottages, Lands, Tenements, or Hereditaments, within the Pariſh of Topcliffe: Provided, That if any Perſon ſhall claim or take the Benefit of this Exemption, not being intitled thereto; every ſuch Perſon ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Five Pounds.

Application of the Money.

And be it further enacted by the Authority aforeſaid, That all ſuch Rates and Duties are hereby veſted in the ſaid Commiſſioners, and ſhall be applied in the firſt Place, in diſcharging the Expences incurred in, and in relation to, the obtaining of this Act; and afterwards, for making, continuing, completing, and maintaining, the ſaid Navigation, and carrying this Act, and the ſeveral Proviſions, Powers, and Authorities, herein contained, into effectual Execution, and to no other Uſe or Purpoſe whatſoever.

Locks, &c. veſted in Commiſſioners.

And be it further enacted by the Authority aforeſaid, That the Right and Property of the ſeveral Doors, Locks, Cloughs, and other Works to be made uſe of for the ſaid Navigation, and of the Materials of which the ſame ſhall conſiſt; and alſo all Materials which ſhall actually be got or collected to be made uſe of in ſuch Works, ſhall be, and they are hereby veſted in the ſaid Commiſſioners, and they, or any Five or more of them, are hereby impowered to bring, or cauſe to be brought, any One or more Action or Actions, in the Name of their Treaſurer or Clerk, or to prefer, or order the preferring an Indictment or Indictments, againſt any Perſon or Perſons who ſhall injure or diſturb them the ſaid Commiſſioners in the Poſſeſſion thereof.

Officers may be appointed,

And be it further enacted by the Authority aforeſaid, That the ſaid Commiſſioners, or any Five or more of them, ſhall, by Writing under their Hands, from time to time, appoint ſuch Perſon or Perſons as they ſhall think fit, to be Collector or Collectors of the Rates and Duties hereby granted or authorized to be taken; and alſo a Treaſurer or Treaſurers to receive all Monies ariſing by virtue

virtue of this Act (ſuch Treaſurers and Collectors giving Security to the Satisfaction of the ſaid Commiſſioners, or any Five or more of them, for the due Execution of their reſpective Offices) and ſuch Collector or Collectors, and all other Perſons who ſhall receive any Money by virtue of this Act, ſhall, from time to time, pay over all the Monies ſo collected or received into the Hands of the ſaid Treaſurer or Treaſurers, at ſuch Times, and in ſuch Manner, as the ſaid Commiſſioners, or any Five or more of them, ſhall direct and appoint: And the ſaid Commiſſioners, or any Five or more of them, may alſo appoint a Clerk or Clerks, and ſuch other Officers as they ſhall think fit to employ in the Execution of this Act; and may allow to ſuch Treaſurers, Collectors, Clerks, and other Officers, ſuch Salaries or Recompence out of the Monies to be raiſed by virtue of this Act, as they the ſaid Commiſſioners, or any Five or more of them, ſhall think reaſonable; and all ſuch Officers ſhall be, from time to time, removeable at the Will and Pleaſure of the ſaid Commiſſioners, or any Five or more of them: And that the ſaid Commiſſioners, or any Five or more of them, ſhall and may, from time to time, and at ſuch Times as they ſhall think proper, ſummon before them, and, if they think fit, examine upon Oath, (which Oath any Two of the ſaid Commiſſioners are hereby impowered to adminiſter) all or any of the ſaid Treaſurers, Collectors, Clerks, and all other Officers and Perſons employed in, or intruſted with, the Receipt or Expenditure of all or any of the Monies to be raiſed by virtue of this Act; and every ſuch Treaſurer, Collector, Clerk, and other Officer and Perſon, employed or intruſted as aforeſaid, is hereby required to render to the ſaid Commiſſioners, or any Five or more of them, a true, exact, and perfect, Account, in Writing, of all and every Sum and Sums of Money ſo by him reſpectively received or expended as aforeſaid: And in caſe any or either of ſuch Treaſurers, Collectors, Clerks, or other Officers or Perſons, ſo employed or intruſted, ſhall be found in Arrear, or refuſe to account, or to pay the Money due upon the Balance of ſuch Account, according to the Orders and Directions of the ſaid Commiſſioners, or any Five or more of them; it ſhall and may be lawful for the ſaid Commiſſioners, or any Two or more of them, by Warrant or Warrants under their Hands and Seals, to levy by Diſtreſs and Sale of the Goods and Chattles of the Perſon or Perſons ſo found in Arrear, or refuſing to account, or to pay the Money due upon the Balance of ſuch Account, ſuch

who are to account.

Sum or Sums of Money as he or they shall be required to account for, or as shall be found due upon the Ballance of his or their Account or Accounts; and for want of sufficient Distress, it shall be lawful for any One or more Justice or Justices of the Peace for the said North Riding of the County of York, upon Complaint made to him or them by the said Commissioners, or any Two or more of them, by Warrant or Warrants under his or their Hands and Seals, to commit such Person or Persons to the Common Gaol of the County, Riding, Division, or Place, wherein such Offender or Offenders shall then be or reside, there to remain without Bail or Mainprize, until he or they shall have made a true and perfect Account, and paid such Monies as shall appear to be remaining in his or their Hands to the said Commissioners, or any Five or more of them, according to their Appointment; or shall have compounded for the same, and paid such Composition-monies to the said Commissioners, or any Five or more of them; which Composition the said Commissioners, or any Five or more of them, are hereby impowered to make; or such Commissioners, or any Five or more of them, may, and are hereby impowered to, bring, or cause to be brought, any Action or Actions in their own Names, or in the Name of any One or more of them, in any of his Majesty's Courts of Record at Westminster, against any such Officer or Person so refusing, neglecting, or making Default as aforesaid, for the Recovery of the Monies that shall be in the Hands of such Officer or other Person respectively.

Trustees may borrow Money on the Credit of the Tolls.

And be it further enacted by the Authority aforesaid, That it shall be lawful for the said Commissioners, or any Seven or more of them, at any Meeting to be held in pursuance of this Act, from time to time, to assign over the Rates and Duties, arising by virtue of this Act, or any Part thereof (the Costs and Charges of assigning the same to be paid out of such Rates and Duties) as a Security for any Sum or Sums of Money to be borrowed, with Interest not exceeding Five Pounds per Centum per Annum, to such Person or Persons as shall advance the same, or their Trustee or Trustees, by the following Words of Assignment under their Hands, or by any other Words for that Purpose:

BY virtue of an Act made in the Seventh Year of the Reign of His Majesty King *George* the Third, intituled, *An Act for making navigable a certain Brook called* Codbeck, *from the River* Swale *to the Borough of* Thirsk, *in*

in the North Riding of the County of York; We of the Commiſſioners do aſſign unto *A. B.* his Executors, Adminiſtrators, or Aſſigns, in Conſideration of the Sum of from this Day of in the Year of our Lord until the ſaid Sum of with Intereſt, at the Rate of *per Centum per Annum*, ſhall be repaid, ſuch Proportion of all the Rates and Duties, ariſing by virtue of the ſaid Act, as the ſaid Sum of ſhall bear to the whole Sum advanced on the Credit of the ſame.

And all and every Perſon or Perſons, to whom the ſaid Commiſſioners, or any Five or more of them, ſhall at any Time make ſuch Aſſignment or Aſſignments, ſhall be equally intitled to their Proportion of the ſaid Rates and Duties, according to the reſpective Sums in ſuch Aſſignment mentioned to be advanced, to ſecure the Repayment thereof with Intereſt as aforeſaid, without any Preference by reaſon of Priority of Aſſignment, or on any other Account whatſoever; and the Money ſo borrowed ſhall be applied in the firſt Place in diſcharging the Expences incurred in, and in relation to, the obtaining this Act; and afterwards in ſuch Manner as the Rates and Duties are directed to be applied, and to no other Uſe or Purpoſe; and an Entry or Memorial of every ſuch Aſſignment, containing the Date, Names of the Parties, and Sums of Money, ſhall be made in a Book or Books to be kept for that Purpoſe by the Clerk or Clerks, Treaſurer or Treaſurers, to the ſaid Commiſſioners, which ſaid Book or Books ſhall and may be peruſed at all ſeaſonable Times by all Perſons whomſoever, without Fee or Reward; and all and every Perſon or Perſons, to whom any ſuch Aſſignment or Aſſignments ſhall be made as aforeſaid, or who ſhall be intitled to the Money thereby ſecured, may, from time to time, aſſign or transfer his, her, or their Right, Title, Intereſt, or Benefit, to the Principal and Intereſt thereby ſecured, to any Perſon or Perſons whatſoever, endorſing on the Back of ſuch Security, before One credible Witneſs, the following Words, or Words to the like Effect:

Application of Monies.

Aſſignments may be transferred.

I Do transfer this Aſſignment, with all my Right and Title to the Principal hereby ſecured, and to all the Intereſt now due, to *C. D.* his Executors, Adminiſtrators, or Aſſigns. Dated this Day of

Witneſs *G. H.* *A. B.*

Aſſignments to be entered in a Book.

Which ſaid Transfer or Aſſignment ſhall be produced and notified to the Clerk or Clerks, Treaſurer or Treaſurers; who ſhall cauſe an Entry or Memorial to be made of ſuch Aſſignment or Transfer, containing the Dates, Names of the Parties, and Sums of Money therein transferred, in the ſaid Book or Books to be kept for the entering the ſaid original Aſſignments, for which the ſaid Clerk or Clerks, Treaſurer or Treaſurers, ſhall be paid ſuch Sum as the ſaid Commiſſioners, or any Five or more of them, ſhall appoint, not exceeding the Sum of Two Shillings; and after ſuch Entry made, but not till then, every ſuch Aſſignment ſhall intitle ſuch Aſſignee, his, her, or their Executors, Adminiſtrators, and Aſſigns, to the Benefit thereof, and Payment thereon, and ſuch Aſſignees may in like Manner aſſign again, and ſo toties quoties; and it ſhall not be in the Power of ſuch Perſon or Perſons who ſhall have made ſuch Aſſignment, to make void, releaſe, or diſcharge, the ſame, or any Monies thereby ſecured, or any Part thereof.

Tolls to be reduced when the Monies borrowed are paid.

And it is hereby further enacted by the Authority aforeſaid, That when and ſo often as the Rates and Duties hereby granted ſhall amount to more Money than will be ſufficient to pay and keep down the Intereſt of the Money to be borrowed in purſuance of this Act, and of all Expences in ſupporting and maintaining the ſaid intended Navigation; then, and ſo often as it ſhall ſo happen, the ſaid Commiſſioners, or any Five or more of them, ſhall cauſe ſuch Overplus Money to be applied in Diſcharge of the Money to be lent on the Security of this Act; and thereupon ſhall alſo cauſe the Rates and Duties hereby granted to be reduced in Proportion thereto: But nevertheleſs, the ſaid Commiſſioners, or any Five or more of them, ſhall and may, when neceſſary, raiſe again the ſaid Rates and Duties, ſo that the ſame do not exceed the Rates and Duties hereby granted.

Navigation to be free.

And it is hereby further enacted by the Authority aforeſaid, That when and ſo ſoon as the ſaid Brook, and the ſaid Cuts and Canals hereby intended to be made navigable, ſhall be made navigable, then, and from thenceforth, the ſaid Part of the ſaid Brook, Cuts, and Canals, hereby intended to be made navigable, ſhall be a free Navigation; and that all the King's Liege People whatſoever ſhall and may have, and lawfully enjoy, free Paſſage along, in, through, and upon, the ſaid Brook, Cuts, and Canals, with and for Barges, Boats, Lighters, and other Veſſels; and alſo the Uſe of the Towing or Haling-paths, and all other neceſſary and convenient Liberties for navigating the ſame, without any

any Let, Hindrance, or Obſtruction, from any Perſon or Perſons whatſoever; ſubject nevertheleſs to the Payment of ſuch Rates and Duties as, by the Tenor and true Meaning of this Act, are or ought to be paid to the ſaid Commiſſioners, or ſuch Perſon or Perſons as they, or any Seven or more of them, ſhall appoint to collect the ſame.

Navigation exempt from Taxes.

And be it further enacted and declared, That the ſaid Rates and Duties, ſhall, at all Times hereafter, be exempted from the Payment of any Taxes, Rates, Aſſeſſments, or Impoſitions whatſoever; any Law or Statute to the contrary notwithſtanding.

Penalty for not ſhutting Lock-gates.

And be it further enacted by the Authority aforeſaid, That if any Boatman, or Perſon having the Care of or paſſing with any Boat, Barge, Lighter, or other Veſſel, through any Lock upon any Part of the ſaid Brook hereby intended to be made navigable, or any of the Cuts or Canals directed to be made by virtue of this Act, ſhall ſuffer the Water to remain in the Lock longer than is neceſſary for his Boat, Barge, Lighter, or other Veſſel, to paſs through any ſuch Lock, and ſhall not, in coming down the ſaid Brook, Cuts or Canals, or any of them, ſhut the lower Gates of ſuch Lock before he or they ſhall draw the Cloughs of the upper Gate thereof; and after he or they ſhall have brought his or their Boat, Barge, Lighter, or other Veſſel, into the ſaid Lock, ſhall not ſhut the upper Gates before he or they ſhall draw the Cloughs of the lower Gates thereof; or in going up the ſaid Brook, Cuts or Canals, or any of them, ſhall not, as ſoon as he or they ſhall have paſſed with his or their Boat, Barge, Lighter, or Veſſel, out of the ſaid Lock, ſhut the upper Gates of the ſaid Lock, and afterwards draw the Cloughs of the lower Gates, unleſs there ſhall be then a Boat, Barge, Lighter, or Veſſel, within One hundred Yards of the ſaid Lock coming down the ſaid Brook, Cuts, or Canals, or any of them; or if any Perſon or Perſons ſhall open any Gate or Gates in the Haling-ways, for the paſſing of Men or Horſes haling any Boat, Barge, Lighter, or other Veſſel, up or down the ſaid Part of the ſaid Brook, Cuts or Canals, hereby intended to be made navigable, and ſhall not ſhut ſuch Gate or Gates after the ſaid Men or Horſes ſhall have paſſed through the ſame; every Perſon offending in any of the Particulars aforeſaid, and being convicted thereof before any Juſtice of the Peace for the ſaid North Riding of the County of York, upon Oath of any One or more Witneſs or Witneſſes, ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Forty Shillings;

lings; One Moiety whereof shall be paid to the Informer or Informers; and in default of Payment of such Penalty, the Person or Persons so offending shall, by Warrant of such Justice of the Peace, be sent to the House of Correction, there to be kept to hard Labour for such Time as such Justice of the Peace shall direct, not exceeding Two Months.

Masters of Vessels answerable for the Crew, &c.

And be it further enacted by the Authority aforesaid, That the Owner or Master of every Boat, Barge, Lighter, or Vessel, shall be, and is hereby made answerable for any Damage or Mischief that shall be done by such Boat, Barge, Lighter, or Vessel, or by any of the Crew, Bargemen, Boatmen, Lightermen, or Watermen, belonging to any such Boat, Lighter, Barge, or Vessel, to any of the Weirs, Locks, Dams, Bridges, or other Works, which shall be made or maintained by virtue of this Act; or for any Damage or Trespass done to the Owner or Occupier of any Lands, Grounds, Fences, or Tenements, upon or adjoining to any Part of the said Brook, Cuts or Canals, hereby intended to be made navigable, or any of them; or by drawing or leaving running any Clough or Cloughs, in any of the said Locks or Cuts, when such Boat, Barge, Lighter, or Vessel, shall have passed through the same, contrary to the Tenor, Purport, and true Meaning of this Act; and such Owner or Master of any such Boat, Barge, Lighter, or Vessel, shall and may be sued for the same, as if such Trespass or Damage had been done or committed by himself; and if such Master or Person, having the Charge of or belonging to any such Boat, Barge, Lighter, or Vessel, shall be found guilty, or Judgement shall be given against him upon Demurrer or by Default, the Plaintiff or Plaintiffs shall not only recover his or their Damages sustained thereby, but also his, her, or their full Costs of Suit.

Owners Names to be marked on their Vessels.

And be it further enacted by the Authority aforesaid, That every Owner, Master, or Person, having the Charge of any such Boat, Barge, Lighter, or other Vessel navigated upon the said Brook, shall cause the Name of the Owner to be put in large White Capital Letters in some conspicuous Place, on each of the Outsides of every such Boat, Barge, Lighter, or other Vessel, higher than the same shall sink into the Water when loaded; and if the Owner, Master, or Person, having the Charge of any such Boat, Barge, Lighter, or other Vessel, shall not at all Times have the Owner's Name put on the Outsides of his Boat, Barge, Lighter, or other Vessel, as aforesaid, every such Master, Owner,

or

or Perſon, having the Charge thereof, ſhall, for every ſuch Neglect or Default, forfeit and pay the Sum of Five Pounds.

Managers of Veſſels obſtructing the Paſſage, how puniſhable.

And be it further enacted by the Authority aforeſaid, That if any Perſon, having the Care or Management of any Boat, Barge, Lighter, or other Veſſel, ſhall put or lay ſuch Boat, Barge, Lighter, or Veſſel, in any Part of the ſaid Brook, Cuts, or Canals, hereby intended to be made navigable, or any of them, ſo as to obſtruct the Paſſage of any other Boat, Barge, Lighter, or Veſſel, or hindering the opening or ſhutting of any of the ſaid Locks, and ſhall not, immediately upon Requeſt made, remove ſuch Boat, Barge, Lighter, or other Veſſel; he ſhall, for every ſuch Offence, forfeit the Sum of Five Shillings for every Hour ſuch Boat, Barge, Lighter, or Veſſel, ſhall continue to obſtruct ſuch Paſſage, or prevent the opening or ſhutting of any Lock as aforeſaid; and it ſhall be lawful for the Agents or Servants of the ſaid Commiſſioners, or any of them, to cauſe any ſuch Boat, Barge, Lighter, or Veſſel, to be unloaded, if neceſſary, and to be removed in ſuch Manner as ſhall be proper for avoiding any Obſtruction in the Navigation, and in the Uſe of ſuch Locks, and to detain ſuch Boat, Barge, Lighter, or Veſſel, and the Loading thereof, or any Part of ſuch Loading, until ſuch Forfeiture and the Charges occaſioned by ſuch Removal are diſcharged, paid, and ſatisfied.

Boats ſunk, to be weighed up immediately.

And be it further enacted by the Authority aforeſaid, That if any Boat, Barge, Lighter, or other Veſſel, ſhall happen to be ſunk in the ſaid Brook, Cuts or Canals, hereby intended to be made navigable, or any of them, and that the Owner or Perſon having the Charge, Command, or Rule thereof, do not, without Loſs of Time, weigh or draw up the ſame again, and hale the ſame out of the Way of other Veſſels paſſing and repaſſing upon the ſaid intended Navigation; it ſhall and may be lawful to and for the Agents or Servants of the ſaid Commiſſioners, to cauſe ſuch Boat, Barge, Lighter, or other Veſſel, to be weighed or drawn up, and to detain and keep the ſame until Payment be made of all Expences occaſioned thereby: And if Payment be not made in Twenty one Days after ſuch Boat, Barge, Lighter, or other Veſſel, be drawn up; then, and in ſuch Caſe, it ſhall and may be lawful to and for ſuch Agents or Servants to cauſe Sale to be made thereof, for reimburſing the ſaid Expences or other incident Charges, returning the Overplus (if any be) to the

Owner or Maſter of the ſaid Boat, Barge, Lighter, or Veſſel.

Boats to be meaſured, and Tonnage marked.

And be it further enacted by the Authority aforeſaid, That the ſaid Agents and Servants to the ſaid Commiſſioners ſhall and may, and they are hereby authorized and impowered, to meaſure all and every or any of the ſaid Boats, Barges, Lighters, or Veſſels, when empty, by putting Weights into the ſame for that Purpoſe; and to ſet Figures or Marks at each End of every ſuch Boat, Barge, Lighter, or Veſſel, on the Outſide, ſhewing how much, or how far, every Ton Weight of Loading which ſhall be put into ſuch Boat, Barge, Lighter, or Veſſel, will ſink the ſame into Water, and, from time to time, may remeaſure every ſuch Boat, Barge, Lighter, or Veſſel, when empty, and mark again ſuch Boat, Barge, Lighter, or Veſſels, as aforeſaid: And if the Owner or Owners, Maſter or Maſters, Perſon or Perſons, having the Charge of any ſuch Boat, Barge, Lighter, or Veſſel, ſhall refuſe, hinder, or obſtruct, the weighing, meaſuring, or marking, of any ſuch Boat, Barge, Lighter, or Veſſel, as aforeſaid; every Perſon ſo refuſing, hindering, or obſtructing, ſhall, for every ſuch Offence, forfeit and pay the Sum of Twenty Pounds: And if any ſuch Owner or Owners, Maſter or Maſters, Perſon or Perſons, ſhall alter, deface, remove, eraſe, or deſtroy, any ſuch Mark or Marks, Figure or Figures, or ſhall ſuffer the ſame to be altered, defaced, removed, eraſed, or deſtroyed; every ſuch Owner or Owners, Maſter or Maſters, or Perſon or Perſons, ſo offending, ſhall forfeit and pay for every ſuch Offence, the Sum of Five Pounds.

Penalty on Refuſal.

Proper Places to be made for Boats to turn or lie in for others to paſs.

And be it further enacted by the Authority aforeſaid, That the ſaid Commiſſioners, or any Five or more of them, ſhall and may, and they are hereby required, in ſuch Parts of the ſaid Brook, Cuts, or Canals, as ſhall not be of a ſufficient Breadth for Keels, Boats, or Veſſels, to turn about or to paſs each other, to open, cut, or make proper Places in the adjoining Lands, at convenient Diſtances from each other, for thoſe Purpoſes; and all Keels, Boats, or other Veſſels, ſailing or being haled or navigated upon the ſaid Brook, Cuts, or Canals, or any of them, ſhall, upon meeting any other Keels, Boats, or Veſſels, ſtop at, or go back to, and lie at, ſuch Places, and in ſuch Manner, as the ſaid Commiſſioners, or any Five or more of them, under their Hands, ſhall reſpectively direct or appoint.

And,

And, for preventing the throwing down or damaging any of the Works which shall be erected or made in pursuance of this Act, be it enacted by the Authority aforesaid, That if any Person or Persons shall wilfully and maliciously break, throw down, damage, or destroy, any Banks, Locks, Weirs, or other Works, to be erected or made for the Purposes aforesaid, whereby the Water shall be so much spent and wasted, as thereby to hinder or prevent the said intended Navigation; such Person or Persons shall be adjudged guilty of Felony, and every such Felon shall be subject and liable to the like Pains and Penalties as in Cases of Felony; and the Courts by and before whom such Person or Persons shall be tried, shall, and hereby have Power and Authority to transport any such Felon for the Space of Seven Years, in like Manner as other Felons are directed to be transported by the Laws and Statutes of this Realm. Damaging the Works, Felony.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall maliciously or wantonly open, or cause to be opened, any Lock or Clough belonging to the said Navigation; or leave any of the Cloughs running, after any Boat, Barge, Lighter, or other Vessel, shall have passed any Lock belonging to the said intended Navigation; or if any Person or Persons shall draw, or cause to be drawn, any Clough or Cloughs, in the Lock-gates in the said Brook, Cuts, and Canals, hereby intended to be made navigable, or any of them, so as to mis-spend or waste the Water of the said Brook, Cuts or Canals, or any of them, to the Prejudice of the said intended Navigation; every such Person or Persons, offending in any of the said Particulars, and being thereof convicted before One or more Justice or Justices of the Peace for the said County, by the Oath of One or more Witness or Witnesses, shall forfeit and pay the Sum of Five Pounds; and in Default of Payment thereof, the Person or Persons offending shall, by Warrant or Warrants of such Justice or Justices, be sent to the House of Correction, there to be kept to hard Labour, for such Time as such Justice or Justices shall direct, not exceeding Two Months. Penalty upon Persons maliciously or wantonly drawing of Cloughs, &c.

And, for the more easy collecting the Rates and Duties hereby made payable, be it further enacted by the Authority aforesaid, That every Master, or other Person having the Command of any Boat, Barge, Lighter, or other Vessel, passing on the said Brook, or the Cuts or Canals, intended to be made navigable as aforesaid, shall make and give a just, true, and perfect, Report or Account, in Writing, signed by himself, unto such Person Masters of Vessels to give an Account of their Loadings.

ſon or Perſons as ſhall, from time to time, be nominated and appointed by the ſaid Commiſſioners, or any Five or more of them, for that Purpoſe, or to collect ſuch Rates and Duties as aforeſaid, and at ſuch Place or Places as ſhall be aſſigned and appointed for the Attendance of ſuch Perſon or Perſons, Collector or Collectors, for that Purpoſe, of the Quantity, Quality, and Weight, of the Goods, Wares, Merchandizes, and other Commodities and Things, which ſhall be in, or belong to, ſuch Boat, Barge, Lighter, or other Veſſel; and alſo of the Quantity, Quality, or Weight, of ſuch Goods as ſhall have been diſcharged or taken out of ſuch Boat, Barge, Lighter, or other Veſſel, within the Limits of the ſaid intended Navigation, before their Arrival at the Place where ſuch Account or Report is to be made and given: And in Failure of making or giving ſuch Account or Report, or in caſe of his or their making or giving a falſe Account or Report; every ſuch Maſter, or other Perſon, having the Command of ſuch Boat, Barge, Lighter, or other Veſſel, ſhall forfeit and pay the Sum of Five Pounds for every ſuch Offence.

Collectors may weigh, meaſure, or gauge, Goods in diſpute.

And be it alſo further enacted by the Authority aforeſaid, That if any Diſpute or Difference ſhall ariſe between the Collectors of the Rates and Duties made payable by this Act, and the Owner, Maſter, or Perſon, having Charge of any Boat, Barge, Lighter, or other Veſſel, or the Owner of any Goods, Wares, and Merchandizes, or other Things chargeable with, or liable to, the Payment of any of the ſaid Rates and Duties, concerning the Weight and Quantity of the ſame; it ſhall and may be lawful to and for ſuch Collector to ſtop and detain any ſuch Boat, Barge, Lighter, or other Veſſel, and to weigh, meaſure, or gauge, or cauſe to be weighed, meaſured, or gauged, all ſuch Goods, Wares, and Merchandizes, or other Things, as ſhall be in any Veſſel or Veſſels, where and when any Diſpute ſhall ariſe: And in caſe ſuch Goods, Wares, and Merchandizes, or other Things, ſhall, upon ſuch weighing, meaſuring, or gauging, appear to be as much in Weight or Quantity as, or of greater Weight or Quantity than, ſuch Collector did inſiſt and affirm the ſame to be before the weighing, meaſuring, or gauging thereof, ſo as to make the ſame chargeable with or liable to the Payment of as much Money as, or more Money than, was demanded by the Collector before the weighing, meaſuring, or gauging, of ſuch Goods, Wares, and Merchandizes, or other Things; then, and in ſuch Caſe, the Maſter or Owner of ſuch Boat, Barge, Lighter, or other Veſſel,

or the Owners of such Goods, Wares, and Merchandizes, so weighed, measured, or gauged, shall pay the Costs and Charges of such weighing, measuring, or gauging: All which said Costs and Charges, upon Refusal of Payment thereof, on Demand, shall and may be recovered, as the Rates and Duties made payable in and by this present Act are appointed to be recovered: But in case such Goods, Wares, and Merchandizes, or other Things, shall, upon such weighing, measuring, or gauging, appear to be of no greater Weight or Quantity than the Master or Owner declared the same to be before the weighing, measuring, or gauging, thereof; then, and in such Case, such Collector shall pay the Costs and Charges of such weighing, measuring, or gauging; and shall also pay to the Master, Owner, or Person having the Charge of such Boat, Barge, Lighter, or other Vessel, or to the Owner or Owners of such Goods, Wares, and Merchandizes, Six Pence for every Hour that such Boat, Barge, Lighter, or other Vessel, shall be detained, by occasion of such weighing, measuring, or gauging, and so in proportion for any greater or less Time than an Hour; and in Default of immediate Payment thereof, the same shall be levied by Distress and Sale of the Goods and Chattles of such Collector, by Warrant or Warrants under the Hand and Seal of any Justice of the Peace for the said North Riding of the County of York, rendering the Overplus, if any be, to the Owner or Owners thereof, after such Distress and Sale made, and the Costs and Charges thereof are paid and satisfied.

Commissioners to make Bridges, &c. where needful.

And be it further enacted by the Authority aforesaid, That the said Commissioners, or any Five or more of them, at any public Meeting for that Purpose to be appointed (Notice in Writing, signed by the Clerk to the said Commissioners, of such Meeting, having been affixed upon the Market Cross of Thirsk aforesaid, Sixteen Days at least before such Meeting) shall and may cause to be had, set up, and, from time to time, maintained and kept in Repair, convenient Gates, Bridges, Passages, and Stiles, in and over all the Ditches and Fences in the Towing-paths, Haling-paths, and Ways, to be set out for the Purposes of this Act, where the same shall respectively be wanting; and are hereby also impowered and required to make sufficient Bridges, with proper Battlements, or Posts and Rails, on each Side, over the new Cuts, Canals, Trenches and Passages, for Water where necessary, for the Use of the Occupiers of the Lands, Tenements, and Hereditaments,

ments, thereunto adjoining, to make them convenient Passages to come to and from their Lands, for the Use and Occupation of the same: And also, that if the said Commissioners, or any Five or more of them, shall find it necessary to deepen or widen the said Brook hereby intended to be made navigable in any Part or Parts thereof, where there now are common or usual Fords or Highways for Passengers on Foot, or for Carts and other Carriages through the same, so as such Fords or Highways shall be thereby rendered impassable or dangerous; then, and in such Case, the said Commissioners, or any Five or more of them, shall first cause a sufficient Bridge or Bridges to be erected, or such other Conveniencies as the said Commissioners, or any Five or more of them, shall adjudge proper, where such Fords or Highways now are, or as near thereto as conveniently may be, and shall from time to time maintain and keep the said Bridges or Conveniencies in Repair, for the Convenience of all Persons having Occasion to pass over the same.

Two Carriage Bridges to be made between *Dale Ings* and *Lord's Ings*.

And be it further enacted, That there shall at all Times hereafter be Two or more proper Carriage Bridges over the said Brook, Cuts, or Canals, between certain Grounds called The Dale Ings, and the Southermost Part of the Lord's Ings; One of which Bridges shall be built at such Place as the said Earl, his Guardians or Guardian, Heirs or Assigns, shall appoint.

Drains to be made.

And it is hereby further enacted by the Authority aforesaid, That the said Commissioners, or any Five or more of them, shall, and they are hereby required, to make, or cause to be made, and maintained, such Arches, Tunnels, Drains, or other Passages, over or under, or into, the said Brook, Locks, Cuts, or Canals, hereby authorized to be made, as shall be sufficient at all Times to convey the Water from the Lands adjoining or lying near unto the said Brook, Locks, Cuts or Canals, or any of them, without obstructing or impeding the same.

10 *s.* Penalty on throwing Ballast, *&c.* into the Navigation.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall wilfully throw any Ballast, Gravel, Stones, Rubbish, or Dirt, into any Part of the said Brook hereby intended to be made navigable, or any Cuts or Canals to be made in pursuance of this Act; every Person so offending, and being convicted thereof before any Justice of the Peace for the North Riding of the said County, upon the Oath of One or more Witness or Witnesses, shall, for every such Offence, forfeit and pay the Sum of Five Pounds; and in case such Penalty shall not be forthwith paid, such Justice

Justice shall, and is hereby authorized and required to commit such Person or Persons to the House of Correction, there to remain for the Space of One Month, unless such Forfeiture shall be sooner paid.

Penalty on giving false Evidence.

And be it further enacted by the Authority aforesaid, That all and every Person and Persons who, in any Examination directed to be taken by this Act, shall give false Evidence before the Commissioners appointed or to be appointed by virtue of this Act, or before any Justice or Justices of the Peace, shall and may be prosecuted for the same; and such Person or Persons as shall be convicted thereof, shall be subject and liable to the same Punishments and Disqualifications as any Person or Persons can or may be subject or liable to for wilful or corrupt Perjury, by any of the Laws and Statutes of this Realm.

Commissioners to raise Banks in Proportion to the Height of the Dams.

And be it further enacted by the Authority aforesaid, That if the said Commissioners, or any Person or Persons authorized or employed by them, or any Five or more of them, shall, by making or raising any Weir or Dam, or otherwise, raise the Water of the said Brook, Cuts, or Canals, or either of them, by this Act to be made navigable, above the ancient or usual Height of such Water, whereby the adjacent Lands and Grounds may be more liable to be overflowed or damaged than they have anciently or usually been; then the said Commissioners, or any Five or more of them, shall, and are hereby required, to cause the Banks thereof to be proportionably raised and strengthened, so that the new Banks shall be as able and sufficient to contain the Water at such their raised Height, as the old Banks were to contain the Water at their ancient and usual Height; and also shall, from time to time, maintain and repair the said Banks so to be raised in pursuance of this Act, as often as Occasion shall require.

Commissioners may secure the Drainage of Lands.

Provided always, and be it enacted by the Authority aforesaid, That the said Commissioners, or any Five or more of them, in executing the said Navigation, or the Works thereof, or in the making any new Cuts, Canals, Trenches, or Passages for Water, in, upon, or through, the Lands or Grounds adjoining to the said Brook, shall cut, dig, and construct, the same, so as the Surface of the navigable Water in the several Cuts, Canals, Trenches, or Passages, to be made as aforesaid, shall, on a Medium, be Two Feet lower than the Surface of the adjoining Lands or Grounds, in order to prevent the Flooding the same, and so as the Drainage thereof

thereof may be secured into the said Cuts, Canals, Trenches, or Passages.

Penalty for demanding unwarranted Rates and Duties.

And be it further enacted by the Authority aforesaid, That if any Collector or Receiver of the Rates and Duties granted or made payable by this Act, shall, at any Time or Times, directly or indirectly, ask, demand, or receive, as and for such Rates and Duties, any Sum or Sums of Money whatsoever, over and above the Rates and Duties herein before mentioned, or that shall be ascertained by the said Commissioners, or any Seven or more of them, to be received; every Person so offending shall, for every such Offence, forfeit and pay the Sum of Twenty Pounds, to be recovered by the Party aggrieved, or any other Person or Persons that will inform or sue for the same.

First Meeting of the Commissioners.

And be it further enacted by the Authority aforesaid, That the said Commissioners, or any Five or more of them, shall meet on the Day Three Weeks next after the passing of this Act, and shall then proceed to the Execution of this Act; and the said Commissioners, or any Five or more of them, shall, after the First Meeting, hold One General Meeting on the Thursday next after the First Day of July in each Year in Thirsk aforesaid; and the Commissioners, or any Five or more of them, assembled at their First Meeting, and at every General Meeting, may then, and from time to time afterwards, at any intermediate Times of the Year, adjourn and hold their Meetings at such Place or Places as shall be most convenient for putting in Execution the Powers of this Act: And if at any Time a sufficient Number of Commissioners shall not attend, to adjourn; then, and in every such Case, and, from time to time afterwards, as often as such Case shall so happen, the Meeting appointed to be there held, shall be deemed adjourned till that Day Three Weeks, and be held at the same Place where such Meeting was appointed to be held; but the Clerk or Treasurer to the said Commissioners shall cause Notice, in Writing, signed by such Clerk or Treasurer, of all Meetings, to be affixed upon the Market Cross of Thirsk aforesaid, Ten Days at least before every such Meeting is held; and at all their Meetings the Commissioners shall bear and defray their own Expences: And no Order or Determination of the said Commissioners, or any Five or more of them, shall be revoked or altered, unless Nine Commissioners shall be present.

Method of adjourning.

Commissioners may make Bye-laws, and impose Fines.

And be it further enacted by the Authority aforesaid, That the Commissioners, or any Five or more of them, at any of their Meetings (of which Meetings Notice

Notice in Writing signed by the Clerk to the said Commissioners, shall be affixed upon the Market-Cross of Thirsk aforesaid, Ten Days at least before such Meeting) shall, from time to time, have full Power and Authority, by any Writing or Writings under their Hands and Seals, to make such Bye-laws, Orders, and Constitutions, for the good and orderly using of the said Navigation, and for the well governing of the Bargemen, Watermen, and Boatmen, who shall convey Goods on any Part thereof, and to appoint Committees to inspect and settle the Accounts, direct the Works, and controul the Officers and Servants employed in pursuance of this Act; and in such Bye-laws, Orders, and Constitutions, may impose upon all Persons offending against the same, such Fines and Forfeitures as the said Commissioners, or any Five or more of them, shall think proper, so as such Fine or Forfeiture shall not exceed the Sum of Forty Shillings on any Person, for any One Offence; which Bye-laws, Orders, and Constitutions, shall be binding to, and observed by all Parties, and shall be sufficient to justify all Persons who shall act in pursuance thereof; and such Fines and Forfeitures shall be recovered in such Manner as the Penalties and Forfeitures are herein after directed to be recovered: But any Person or Persons thinking himself, herself, or themselves, aggrieved by any Order or Judgement made or given in pursuance of any such Bye-law, Order, or Constitution, may, within Three Months after such Order or Judgement shall be made or given, complain to the Justices of the Peace at their General or Quarter Sessions to be held in and for the said North Riding of the said County of York, who shall in a summary Way either hear and determine the said Complaint at such General or Quarter Sessions, or, if they think proper, may adjourn the Hearing thereof to the next General or Quarter Sessions of the Peace to be held for the said North Riding; and, if they see Cause, may mitigate or alter such Forfeitures or Punishments, and may order any Money to be returned which shall have been levied in pursuance of such Bye-law, Order, or Constitution; and may also order such further Satisfaction to be made to the Party injured as they shall judge reasonable; but no Justice of the Peace shall act or vote in the Hearing or Determining of any such Complaint, whose Hand and Seal as a Commissioner shall appear to have been set to the said Bye-law, Order, or Constitution, which occasioned such Complaint.

Appeal therefrom.

Penalties and Forfeitures how to be recovered.

And be it further enacted and declared, That all the pecuniary Penalties and Forfeitures, inflicted and made payable by this Act, except in such Cases wherein it is hereby otherwise ordered, directed, and provided, shall, in all Cases where such Penalties or Forfeitures do not exceed the Sum of Five Pounds, be recovered by Distress and Sale of the Offenders Goods and Chattles, by Warrant or Warrants under the Hand and Seal, or Hands and Seals, of any Justice or Justices of the Peace for the said North Riding of the said County of York; and in case sufficient Distress shall not be found, it shall be lawful for any such Justice or Justices to commit such Offender or Offenders to the Common Gaol, or House of Correction, there to remain without Bail or Mainprize, for any Space not exceeding Three Months, or until such Penalty be paid; and all such Penalties and Forfeitures, or such Parts thereof as are not herein before directed to be applied, shall be paid into the Hands of the Treasurer to the said Commissioners, to be applied for the Purposes of this Act; and that all such Penalties and Forfeitures as exceed the Sum of Five Pounds, shall and may be recovered, with full Costs of Suit, by any Person or Persons who shall sue for the same, by Action of Debt, Bill, Plaint, or Information, in any of His Majesty's Courts of Record at Westminster, wherein no Essoin, Protection, or Wager of Law, or more than One Imparlance, shall be allowed.

Persons aggrieved may appeal to the Quarter Sessions.

Provided always, and be it further enacted, That all Persons who shall think themselves aggrieved by the Order or Judgement of any Justice or Justices of the Peace, upon account of any Offence committed or supposed to be committed against this Act, may appeal to the Justices of the Peace for the said North Riding of the said County of York, at their next General or Quarter Session; the Person or Persons so appealing, giving Security to the Satisfaction of the said Justice or Justices, to prosecute such Appeal with Effect, and to pay the Costs which shall be ascertained by the said General or Quarter Session, in case such Order or Judgement shall be affirmed; and the Justices in the said General or Quarter Session are hereby authorized and required to hear and determine such Appeal, and to make such Order therein, and to award such Costs, as to them shall appear just; which Order shall be final and conclusive to all Parties, and shall not be removed or removable by any Writ of *Certiorari*, or otherwise, into any of His Majesty's Courts of Record at Westminster, or elsewhere: And that no Order or other Proceedings to be had or made

Orders not removable by *Certiorari*.

made by or before any Justice of the Peace, in relation to the Premisses, shall be quashed or vacated for want of Form only.

Proceedings not to be quashed for want of Form.

And be it further enacted by the Authority aforesaid, That Accounts of all Monies which shall be received, and borrowed, by virtue of this Act, and of the Expenditure of such Monies respectively; and also all Debts, Contracts, Orders, and Proceedings of the said Commissioners, or any of them, in Execution of, or relating to, this Act, shall be from time to time regularly and fairly entered in Books to be kept for that Purpose; and such Entries being signed by any Two or more of the said Commissioners, or the Clerk to the said Commissioners, shall be deemed Originals, and shall be admitted to be read in Evidence in all Courts whatsoever.

Proceedings to be entered in Book.

And be it further enacted by the Authority aforesaid, That each of the said Commissioners, who shall be in the Commission of the Peace for the said North Riding of the said County of York, shall and may, and is hereby impowered, to act as a Justice of the Peace in the Execution of this Act, notwithstanding his being a Commissioner under and by virtue of this Act.

Commissioners may act as Justices.

And be it further enacted by the Authority aforesaid, That the said Brook, Cuts, and Canals, hereby intended to be made navigable, shall not be under the Survey or Order of any Commissioners of Sewers, nor subject to a Commission of Sewers, or any Law or Statute made for Sewers; any Law or Statute to the contrary in any wise notwithstanding.

Navigation not subject to Commissioners of Sewers.

Provided always, and be it further enacted, That it shall and may be lawful to and for the Right Honourable the Earl of Egremont, his Guardians or Guardian, Heirs or Assigns, at any Time or Times hereafter, to build, erect, and make use of, or cause to be built, erected, and used, a Water Corn Mill, or other Mill, on the Lands or Grounds of the said Earl, near or adjoining to the Place where the First or Second Lock or Dam upon the said Brook, from the River Swale, shall be made; and to make a convenient Carriage-way over the said Navigation to and from the said Mill, so as such Mill or Carriage-way to be built, erected, or made, as aforesaid, shall not any ways obstruct or injure the said intended Navigation.

Earl of *Egremont* to erect a Water Mill, and a Carriage-way over the Brook.

Provided also, and it is hereby declared and enacted by the Authority aforesaid, That nothing in this Act contained shall be construed to obstruct or hinder the Lord or

Lords of Manors, &c. may build Warehouses.

or Lords of the Manor or Manors, or the Owner or Owners of any Lands or Grounds lying upon or near the Banks of the said Brook, Cuts, and Canals, hereby intended to be made navigable, from making or erecting any Warehouses, Weigh-beams, Cranes, Quays, Landing-places, or Wharfs, upon the Banks of the said Brook or Cuts, in and upon their own Lands, Wastes, or Grounds, so that the erecting or using of such Warehouses, Weigh-beams, Cranes, Quays, Landing-places, or Wharfs, do not obstruct or prejudice the said Navigation, or any of the Powers given by this Act; and all Rates, Dues, and Duties, which shall be paid for the Use and Benefit of the same Warehouses, Weigh-beams, Cranes, Quays, Landing-places, and Wharfs respectively, shall be, and the same are hereby vested in such Lord or Lords of such Manor or Manors, or the Owner or Owners of such Lands, Wastes, and Grounds respectively, who shall make or erect any such Warehouses, Weigh-beams, Cranes, Quays, Landing-places, or Wharfs, upon his, her, or their Lands, Wastes, or Grounds, lying upon the said Brook, Cuts, or Canals, so that no more than the Sum of Six Pence per Ton shall be demanded or taken for the Wharfage of such Goods or other Things, unless such Goods or other Things shall remain on such Wharf for more than Ten Days.

Reservation of Rights to Land-owners, &c.

And be it further enacted by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, or take away the Rights or Privileges of any Owners, Possessors, or Occupiers, of Lands, Tenements, or Hereditaments, adjoining or lying near to the said Brook, Cuts, or Canals, hereby intended to be made navigable, of watering their Cattle, which they had and enjoyed before the passing of this Act; so that the same do not obstruct or prejudice the said Navigation, or any of the Powers given by this Act; but if any such Owners, Possessors, or Occupiers, shall receive any Damage or Injury by being prevented therefrom, for or by reason of this Act; that then such Owners, Possessors, or Occupiers, shall receive Satisfaction and Recompence for the same in the Manner herein before directed, in case they shall be intitled thereto.

Reservation of Rights.

Provided always, and it is hereby further declared and enacted, That it shall and may be lawful to and for the Owners and Occupiers of any Lands or Tenements adjoining to the said Brook, Cuts, or Canals, or any of them, hereby intended to be made navigable, to use any Pleasure

ſure Boat or Boats upon the ſame, without the Hindrance or Interruption of the ſaid Commiſſioners, and their Succeſſors, or any of them, and without paying any of the Rates or Duties aforeſaid; ſo as ſuch Pleaſure Boat or Boats is or are not uſed for carrying of any Goods, Wares, Merchandizes, or other Things, charged or chargeable with any of the Rates and Duties by this Act granted and made payable; and that the Lord or Lords of the reſpective Manors, or any other Perſons whatſoever, ſhall have full Liberty to fiſh, fowl, and exerciſe all ſuch other Royalties on the ſaid Brook, and navigable Cuts and Canals, as they are now legally intitled to; any thing herein contained to the contrary notwithſtanding.

Writings to be without Stamps.

Provided alſo, and be it further enacted by the Authority aforeſaid, That no Nomination, Appointment, Information, Order, Judgement, Conviction, Warrant, Aſſignment, Transfer, or other Security for the borrowing of Money, or other Writing whatſoever, under the Hand and Seal, or Hands and Seals of, or only ſigned by, any Commiſſioner or Commiſſioners for putting this Act in Execution, or any Juſtice or Juſtices of the Peace, or exhibited before them, or any of them, touching any Power or Authority hereby veſted in ſuch Commiſſioners, or Juſtices of the Peace, or any of them, ſhall be charged or chargeable with any Stamp-duty whatſoever.

Warrants by whom to be executed.

And be it further enacted by the Authority aforeſaid, That all and every Warrant and Warrants, that ſhall or may be granted by any Perſon or Perſons enabled or impowered to grant the ſame, under or by virtue of this Act, ſhall and may be directed to the Conſtable, Headborough, or other Officer, of the Townſhip, Parish, or Place, where the Offender or Offenders ſhall live, reſide, or inhabit; which Conſtable, Headborough, or other Officer is hereby authorized and required to execute the ſame.

Limitation of Actions.

And be it further enacted by the Authority aforeſaid, That if any Action or Suit ſhall be brought or commenced againſt any Perſon or Perſons for any thing to be done in purſuance of this Act, or in relation to the Matters herein contained, every ſuch Action and Suit ſhall be brought and commenced within the Space of Six Calendar Months next after the doing the Matter or Thing for which ſuch Action or Suit ſhall be ſo brought or commenced, and not afterwards, and ſhall be brought, laid, and tried in the County of York, and not elſewhere; and the Defendant or Defendants in all ſuch Actions and Suits may plead the General Iſſue, and give this Act, General Iſſue.

and the Special Matter in Evidence, at any Trial or Trials which shall be had thereupon, and that the Matter or Thing was done in pursuance of this Act: And if the same shall appear to have been so done, or if any such Action or Suit shall not be commenced within the Time before limited, or shall be laid or brought in any other County than as aforesaid; that then, and in either or any of such Cases, the Jury or Juries shall find for the Defendant or Defendants: And if a Verdict or Verdicts shall be found for such Defendant or Defendants, or if the Plaintiff or Plaintiffs shall become nonsuited, or suffer a Discontinuance, after the Defendant or Defendants shall have appeared; or if, upon any Demurrer or Demurrers, Judgement shall be given for the Defendant or Defendants; in either or any of the Cases aforesaid, such Defendant or Defendants shall have Treble Costs, and shall have such Remedy for recovering the same, as any Defendant or Defendants hath or have for his and their Costs in other Cases by Law: And this Act shall be adjudged, and taken to be, a Public Act; and be judicially taken Notice of as such by all Judges, Justices, and other Persons whatsoever, without specially pleading the same.

Treble Costs.

Public Act.

FINIS.