



ANNO DECIMO NONO & VICESIMO

# VICTORIÆ REGINÆ.

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## *Cap. cxxviii.*

An Act to amend *An Act for draining, embanking, and improving the Fen Lands and Low Grounds within the Parishes, Hamlets, Townships, or Places of Bardney, Southrow otherwise Southry, Tupholme, Bucknall, Horsington, Stixwould, Edlington, and Thimbleby, in the County of Lincoln, and to confer further Powers on the Commissioners under such Act, and for other Purposes.* [21st July 1856.]

**W**HEREAS an Act was passed in the Sixth and Seventh Years of the Reign of Her present Majesty, intituled *An Act for draining, embanking, and improving the Fen Lands and Low Grounds within the Parishes, Hamlets, Townships, or Places of Bardney, Southrow otherwise Southry, Tupholme, Bucknall, Horsington, Stixwould, Edlington, and Thimbleby, in the County of Lincoln, and Doubts have arisen as to the Construction of the Thirty-fourth Section of the said Act in respect of the Duration of the Power thereby granted to the Commissioners to borrow Money upon* 6 & 7 Vict.  
c. lxxvi.

[*Local.*] 22 K Mortgage,

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Mortgage, and it is expedient that the said Act should be amended, and that the Powers of the said Commissioners with reference to the borrowing of Money and in other respects should be enlarged and amended as herein-after expressed ; but such several Purposes cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Power to borrow Money on Mortgage.

I. The Powers conferred by the said Act on the Commissioners for the Purpose of borrowing Money at Interest on the Credit and by Mortgage and Assignment of the Rates and Taxes by that Act authorized to be made, and of the other Property of the Commissioners, shall exist and be in full Force for Twenty-five Years from and after the passing of this Act, but for no longer Period ; and all Monies borrowed by the Commissioners under the Provisions of the said Act shall be repaid within that Period.

Commissioners may agree for Advance of Money by way of terminable Annuity.

II. At any Time within the Space of Twenty-five Years after the passing of this Act the Commissioners may, if they shall so see fit, enter into an Agreement (executed in the same Manner as Contracts are directed by the said Act to be executed) with One or more Persons for the Advance of One or more Sum or Sums of Money by way of terminable Annuity as shall be sufficient to discharge all the Mortgages, Interest upon Mortgages, Debts, and Liabilities of the said Commissioners, such Sum or Sums of Money not to exceed the total Sum of Twenty-five thousand Pounds.

Annuity not to be for more than 25 Years, nor at more than 5 per Cent.

III. Such terminable Annuity shall not be for a longer Period than Twenty-five Years, to be calculated from Nine Months after the passing of this Act, and shall not be calculated at a higher Rate of Interest than Five Pounds for the Hundred, and such further Rate as will return to the Person advancing such Money the Principal Sum advanced by the Time of the Termination of such terminable Annuity.

Commencement of Annuity.

IV. Such terminable Annuity shall commence from the next Quarter Day after the Day of the Date of the Agreement, or from the Quarter Day next after Payment of the Principal Sum to be advanced under such Agreement.

Annuities to be paid by Commissioners.

V. The Commissioners shall pay the periodical Instalments of the terminable Annuity from Time to Time as they fall due.

Application of Consideration Money

VI. The Commissioners shall expend the Principal Monies received as the Consideration for the terminable Annuity in paying off all the Mortgages,

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Mortgages, Interest upon Mortgages, Debts, and Liabilities of the said Commissioners; but it shall not be the Duty of the Person advancing the Money to see to the Appropriation thereof.

for terminable Annuity.

VII. If the Sum of Twenty-five thousand Pounds hereby authorized to be raised by way of terminable Annuity shall be insufficient to pay off all the Mortgages, Interest upon Mortgages, Debts, and Liabilities of the Commissioners, the Remainder shall be paid out of any Monies in the Hands of the Commissioners, or out of the Proceeds of the annual Rate for the Year next succeeding the Execution of such Agreement.

Excess of Debts over 25,000*l.*, how to be paid.

VIII. After the Agreement between the Commissioners and the Person or Persons advancing the Money has been executed, the Commissioners shall forthwith proceed to apportion the terminable Annuity by an equal Acreage Apportionment over all the Fen Lands and Low Grounds liable to be rated and taxed for the Purposes of the recited Act and of this Act, according to the Definition of Fen Lands and Low Grounds contained in the One hundred and seventeenth Section of the recited Act; and the Commissioners shall draw up an Award of Apportionment, and, after such Inquiry as to them shall appear necessary, shall execute the same in the same Manner as Contracts are directed to be executed by the recited Act.

Commissioners to apportion terminable Annuity.

IX. The Award of Apportionment shall be a Field Apportionment, and shall specify the Portions of the total terminable Annuity respectively apportioned upon the Lands designated in the Award of Apportionment, and shall have annexed a Map of the Lands charged upon a Scale of not less than One Inch to every Six Chains.

Apportionment to be a Field Apportionment.

X. The Award of Apportionment shall be executed in Duplicate and one Part shall be deposited at the Office of the Clerk of the Peace for the Parts of *Lindsey* in the County of *Lincoln*, to be there inspected upon Payment of a Fee of Two Shillings and Sixpence, and the other Part shall be deposited at the Office of the Commissioners, or of their Clerk for the Time being, to be there inspected *gratis*.

Award of Apportionment to be executed in Duplicate, and deposited.

XI. After such Award of Apportionment shall be made and executed and deposited, the Surveys, Schedules, and Deposits mentioned in the One hundred and eighteenth and One hundred and nineteenth Sections of the recited Act shall be no longer required, and the said Sections of the said Act, so far as they relate to Surveys, Schedules, and Deposits, shall stand repealed.

Sections 118. and 119. of 6 & 7 Vict. c. lxxvi. repealed.

XII. The Award of Apportionment, when made and executed, shall be binding and conclusive on all Parties, and no such Award shall be impeached

Award to be conclusive.

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impeached by reason of any Mistake or Informality therein, and every Instrument purporting to be an Award so executed shall be hereby absolutely confirmed and made valid in all respects.

Rates to be made upon the Apportionment Award.

XIII. After the Award of Apportionment has been made and deposited, the Commissioners shall thenceforth make and collect all future Rates and Taxes by such Award, and such Award shall for this Purpose have the same Validity and Effect as the Map or Plan and Schedule had under the recited Act.

Sums apportioned to be terminable Rentcharges.

XIV. Every Sum apportioned by the Award of Apportionment shall be a terminable Rentcharge issuing out of the Lands whereon the same is apportioned, for such Period and subject to such Powers of Redemption, if any, as in the Agreement are specified and reserved.

Commencement of Rentcharge, and payable half-yearly.

XV. All terminable Rentcharges shall commence on such One of the Days herein-after named, that is to say, the First Day of *January*, the First Day of *April*, the First Day of *July*, and the First Day of *October* as shall precede the Day on which the total terminable Annuity to be paid by the Commissioners under the Terms of the Agreement shall commence, and shall be payable by equal half-yearly Payments.

Rent charges payable to Clerk.

XVI. All terminable Rentcharges shall be due and payable to the Clerk for the Time being of the Commissioners, and shall be recoverable by him on behalf of the Commissioners.

Expenses of Recovery to be Part of working Expenses.

XVII. All Expenses or Losses incurred in the Collection or Enforcement of Rentcharges shall be Part of the working Expenses of the Drainage and Embankment.

Day of General Annual Meeting.

XVIII. After the passing of this Act the General Annual Meeting of the Commissioners shall be held upon the First *Tuesday* in the Month of *June* in every Year, instead of on the First *Tuesday* in the Month of *July*, as by the recited Act is enacted.

Amendment of rating Powers.

XIX. And whereas by the One hundred and fifteenth Section of the recited Act it is enacted, "that it shall be lawful for the said Commissioners, and they are thereby authorized and required, at their First Meeting to be holden after the passing of the said Act, or at any Adjournment thereof, and from Time to Time, at their General Annual Meeting in each and every succeeding Year, or at any Adjournment thereof, to assess, rate, tax, and charge all the Owners and Occupiers of the Fen Lands and Low Grounds to be embanked and drained under the Authority of the said Act with such an equal or proportionable Acre Rate or Tax as to the said Commissioners shall seem just and reasonable for and towards the Embankment, Drainage, and Improvement

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ment of all the same Fen Lands and Low Grounds, and the Construction, Support, and Maintenance of the several Works necessary for that Purpose, and the Satisfaction by the Means therein aforesaid of any Sum raised by Mortgage, and the Interest thereof, and so in proportion for any greater or less Quantity than an Acre:" Be it enacted, after the Execution of an Award of Apportionment, so much of the recited Section as empowers the Commissioners to make a Rate for the Satisfaction of any Sum raised by Mortgage, and the Interest thereof, (except so far as is permitted by the Seventh and Seventeenth Sections of this Act,) shall be hereby repealed, and a Rate shall be assessed, rated, taxed, and charged by the Commissioners under the Provisions of the recited Section, and shall be (except as is in the Seventh and Seventeenth Sections of this Act excepted) a Rate to defray the working Expenses of the Drainage and Embankment; and except as is hereby specifically stated and enacted, all the Provisions of the recited Act which apply to the Rates or Taxes to be assessed, rated, taxed, or charged under the Provisions of that Act shall remain applicable to the Rate to be assessed and levied to defray the working Expenses of the Drainage and Embankment.

XX. The Rate to defray the working Expenses of the Drainage and Embankment shall not in any One Year exceed the Amount of Ten Shillings an Acre.

Working Expenses Rate not to exceed 10s. an Acre.

XXI. For the Purpose of recovering the Rentcharge charged upon any Lands by an Award of Apportionment, be it enacted as follows: It shall be lawful for the Clerk or the Commissioners, or for any Person authorized by him or them, if the Rentcharge shall not be tendered within Twenty-one Days after the same shall fall due, to distrain upon the Lands liable to the Payment thereof, or any Part thereof, or on any Part of such Lands, and also to distrain upon any Lands, subject to the Provisions of this Act, in the Occupation of the Person who is the Occupier of Lands whereon Arrears of Rentcharge are due, for all Arrears of the said Rentcharge, and to dispose of the Distress when taken, and otherwise to act and demean himself in relation thereto as any Landlord may for Arrears of Rent reserved on a common Lease for Years, provided that not more than Two Years Arrears shall at any Time be recoverable by Distress.

Recovery of Rentcharge by Distress.

XXII. In case the Rentcharge shall be in arrear and unpaid for the Space of Forty Days next after any half-yearly Day of Payment, and there shall be no sufficient Distress on the Premises liable to the Payment thereof, it shall be lawful for the Clerk to the said Commissioners, or any Person acting under his Authority, to go upon the Premises and deliver to the Tenant resident thereon, or if there be no Tenant resident thereon, then to affix upon some conspicuous Part of

When Rentcharge is in arrear for a certain Time, and no sufficient Distress on the Premises, Possession may be obtained under

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Authority of  
Justices.

the Premises, Notice of the Amount of Arrears due, and also what Day (at the Distance of Fourteen Days at the least) the said Clerk will apply to a Justice of the Peace for a Warrant to obtain Possession of the said Premises in default of Payment; and upon Proof being given to the Satisfaction of any Justice of the Peace within whose Jurisdiction such Premises shall be situated that the Notice has been duly served or affixed, and that the Sum in arrear mentioned in the said Notice has neither been paid nor tendered, the said Justice shall, after Service of a Summons on the Party charged (which Service shall be effected either by delivering a Copy thereof to the Party personally, or leaving the same at his usual or last known Place of Abode), issue his Warrant to any Constable within his Jurisdiction, requiring him to put the Clerk to the said Commissioners, or any other Person who shall have satisfied such Justice that he is the Person for the Time being entitled to receive the Arrears of Rentcharge, into possession of the Premises whereon such Rentcharge remains due; and every Constable to whom any such Warrant shall be directed shall duly execute and return the same according to the Exigency thereof; and the Clerk to the said Commissioners, or any other such Person so entitled as last aforesaid, being so in possession of the said Premises, shall retain Possession thereof until the Arrears of Rentcharge due at the Commencement or falling due during the Continuance of such Possession, and also until the Costs of all the Proceedings, and of cultivating and keeping Possession of the Lands, shall be fully satisfied.

Appeal to  
Justices in  
Quarter Ses-  
sions.

XXIII. In case any Person shall be dissatisfied with the Warrant of a Justice for giving Possession of Lands under this Act, or with any Proceedings had under such Warrant, all such Proceedings to Possession shall be examinable in a summary Way by the Justices at the General Quarter Sessions of the Peace to be held for the Parts of *Lindsey* in the County of *Lincoln* next after such Proceedings shall have been taken, or next after the particular Proceeding complained of shall have occurred; and the Justices in Quarter Sessions are hereby empowered to order Restitution to be made, if they shall see Cause for the same, and to make such Order as to the Costs of such Application as they shall see fit.

Power to let  
Land taken  
under Jus-  
tices War-  
rants.

XXIV. It shall be lawful for any Person entitled to Arrears of Rentcharge, having taken Possession of any Land for Nonpayment of the Rentcharge under the Provisions of this Act, from Time to Time during the Continuance of such Possession to let such Land, or any Part thereof, for any Period not exceeding One Year in possession, at the best Rent which can be reasonably obtained for the same, and the Restitution of such Land on Payment or Satisfaction of the Rentcharge, Costs, and Expenses shall be subject and without Prejudice to any such Tenancy.

XXV. In

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XXV. In case any terminable Annuity Payment due from the Commissioners under the Provisions of any Agreement made pursuant to this Act shall be in arrear and unpaid for Twenty-one Days after the same shall have accrued due, it shall be lawful for the Person entitled to such terminable Annuity Payment to give Notice to the Commissioners of his Intention to collect all or any of the Rentcharges payable under the Award of Apportionment; and after the Service of such Notice such Person so entitled shall have all the Powers for recovering such Rentcharges and Expenses as are by this Act given to the Clerk of the Commissioners for the Recovery thereof; and the Commissioners shall pay to such Person his reasonable Costs and Expenses incurred in collecting such Rentcharge and any Sum that may be deficient from the Amount due in the Amount collected, and such Deficiency and Expenses shall be recoverable by Action at Law,

Remedy of Owners of terminable Annuities.

XXVI. All the Tenants and Occupiers of the Lands subject to Rates or Rentcharges, or other Charges made by virtue of this Act, shall pay all the Rates or Interest or periodical Payments which may accrue in respect of such Rentcharges or other Charges upon their respective Lands in their several Occupations to the Person entitled to receive the same, and shall retain the same out of their Rents; and every such Tenant or Occupier paying any such Monies shall be discharged of so much Money or Rent as the Sums so paid by him shall amount to, as fully as if the same had been actually paid to his Landlord; but no Expenses of a Distress or other Expenses or Losses occasioned by Nonpayment of any Rates or Rentcharge, or any Interest or periodical Payment by the Tenant, shall be so deducted, unless such Expenses or Losses shall have been sustained by reason of Rates or Interest or periodical Payments which were in arrear at the Time of the Commencement of the Tenancy or Occupation of such Tenant or Occupier.

Tenants to pay Rentcharges and deduct them from Rents.

XXVII. No Lessee or Tenant of any Lands or Grounds charged with any Rates or Rentcharge or other Charge by virtue of this Act, who shall hold the same under any Lease from any Bishop, Collegiate Church, or any Corporation, sole or aggregate, or under any Lease or Agreement on which a Rent of not more than One Fifth of the Amount to which the Premises are rated to the Poor's Rate shall have been reserved, and of which at the Time such Rentcharge shall be first apportioned Six Years shall be unexpired, shall be entitled to deduct the Monies so paid out of the Rent reserved by any such Lease or Agreement, but all such Rates, Interest, and Rentcharge shall be borne by the Lessee or Tenant so holding such Lands as aforesaid.

No beneficial Lessee to be allowed to deduct Rentcharge where Six Years are unexpired in the Lease.

XXVIII. No Person being a Creditor on the Rates authorized by this Act, and being an Owner or Occupier of any of the Lands whereon a Rate,

Creditors not to deduct Rentcharges

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for Interest  
Money.

a Rate, Assessment, Rentcharge, or other Charge exists by virtue thereof, shall at any Time deduct or set off the Monies payable to him as such Creditor out of or from any Monies which shall be payable by him as such Owner or Occupier, but the Monies payable by him shall from Time to Time be paid in the same Manner as if such Person were in nowise interested as a Creditor on the said Rates and Taxes.

Reserved  
Fund to be  
set apart for  
extraor-  
dinary Exi-  
gencies.

XXIX. Out of the Sum collected under the Rate to defray the working Expenses of the Drainage and Embankment the Commissioners shall every Year invest in Government Securities, in the Names of the Commissioners or any Two of them, any Sum not exceeding the Sum of Two hundred Pounds, for the Purpose of forming a Reserve Fund to meet any unusual Charges in respect of Repairs or Renewals required to the Works or Machinery, or Accidents happening thereto, or any other extraordinary Expenditure necessary to the Sustentation of the Drainage and Embankment; but if such Reserve Fund, and the Interest or Dividends accruing thereon, shall accumulate to the Sum of Three thousand Pounds, the Payment thereto out of the Rate to defray working Expenses shall so long as the Reserve Fund remains at that Amount cease, and the Interest accruing upon such Sum of Three thousand Pounds shall be applied towards the working Expenses of the Drainage and Embankment: Provided nevertheless, that in the event of the said Reserve Fund amounting to the Sum of Three thousand Pounds, and the same being reduced below that Amount by the Application of any Portion thereof for the Purposes above mentioned, then and in every such Case the Commissioners shall recommence making annual Investments in manner aforesaid until such Reserve Fund shall again amount to the Sum of Three thousand Pounds.

Commis-  
sioners exo-  
nerated from  
Liability in  
respect of  
5,000*l.* bor-  
rowed under  
an Agree-  
ment with  
the Earl of  
Harrowby,  
R. Vyner,  
and C. Tur-  
nor Esqs.

XXX. And whereas certain Owners of Lands within the Provisions of the said Act, in consideration that their Lands are more beneficially affected by the Drainage and Embankment than the Lands of the other Landowners, have agreed to take upon themselves all Liabilities in respect to the Sums of Three thousand Pounds advanced by *John Pearson* Esquire, and the further Sum of Two thousand Pounds advanced by *Charles Pearson* Esquire, upon the joint and several Obligations of the Right Honourable the Earl of *Harrowby*, *Robert Vyner* Esquire, and *Christopher Turnor* Esquire, and expended in the Completion of the Drainage and Embankment Works, and have further agreed that such Liability shall be taken and borne in the Sums and Proportions following; that is to say, by the said Earl of *Harrowby* the Sum of Nine hundred and thirty Pounds, by the said *Robert Vyner* the Sum of Two thousand and seventy Pounds, and by the said *Christopher Turnor* the Sum of Two thousand Pounds: Be it enacted,  
from





