



ANNO QUINQUAGESIMO

GEORGII III. REGIS.

Cap. 47.

An Act for improving the Lower End of the *Barrier Bank*, between *Salter's Lode* and *Welche's Dam Bridge*, in the *Isle of Ely*, and Counties of *Cambridge* and *Norfolk*.
[18th April 1810.]

WHEREAS certain Fen Lands and Low Grounds lying and being in the Manors and Parishes of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra-parochial Place called *Welche's Dam*, within the *Isle of Ely*, and respective Counties of *Cambridge* and *Norfolk*, containing by Estimation Twenty thousand Acres or thereabouts, and bounded as followeth; (that is to say) from the *Bedford Bank*, at a Place called *Salter's Lode*, communicating by a River called *Well Creek*, from thence along by *Popham's Eau*, to a Place called the *Sixteen Feet River* or *Drain*, and from thence to a Place called the *Forty Feet River* or *Drain*, and from thence along by the said River or *Drain*, to a Place called *The Old Bedford River* at *Welche's Dam*, and from thence along by the said River to *Salter's Lode* aforesaid, have lately been overflowed and annoyed with Water, by reason of the Insufficiency of the Outfall by *Wellmore Lake*, which discharges the Land Waters to the Sea, and the *Barrier Bank* being incapable of sustaining the great weight of Water, the said Lands are thereby greatly diminished in their Value; to the great Loss of the several Owners and Proprietors thereof, and the Publick in general: And whereas the Whole of the said Lands are within the Drainage, but only a Part thereof under the Controul or subject to any Assessment for draining by the Governor, Bailiffs, and Conservators of the Great Level of the Fens called *Bedford Level*; but the Owners and Pro-

[Loc. & Per.] 12 Z prietors

Appointment
of Commis-
sioners.

prietors of the free Lands are nevertheless willing under the Circumstances of the late heavy Demands upon the said Governor, Bailiffs, and Conservators, arising from the Breaches of Bank and Inundations in the said Great Level, during the last Year, to assist the said Governor, Bailiffs, and Conservators in the Reparation of the said *Barrier Bank* and Improvement of the said Outfall, whereby the said Fen Lands may be drained and preserved so as to restore them to their Value: And whereas the Owners and Proprietors of the said Lands are desirous of contributing to the Repair of the said *Barrier Bank* and Improvement of the said Outfall, and to making, altering, and repairing such new and other Works as may be necessary for the preservation, draining, and improving the said Lands, and for that Purpose to raise sufficient Sums of Money by Assessments, Rates, and Taxes upon their said Lands; but as the same cannot be done without the Authority of Parliament, 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 Lord or Lords, Lady or Ladies of the respective Manors and Parishes of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra Parochial Place called *Welche's Dam*, and their Stewards, and the Rectors and Vicars respectively for the Time being, *William Plummer Atkinson, Morley Beart, John Clark, Joseph Clemenson, John Cross, Joseph Cole, William Dunstan, John Failes, John Hills, William Jones, William Lee, James Lee, Thomas Martin, Robert Smart, Thomas Skeels, William Whitting, Hugh Wool, and Thomas Wright*, shall be and are hereby appointed Commissioners for putting this Act into Execution, in the Manner and for the several Purposes herein-after expressed and declared.

Power to ap-
point addi-
tional Com-
missioners.

II. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time, to appoint any other Person or Persons who shall be qualified as herein-after mentioned, to be a Commissioner or Commissioners to act in the Execution of this Act, (subject nevertheless to the Provisions herein-after contained), and such Person or Persons shall have the same Powers and Authorities in all respects whatsoever, as he or they would have had or been entitled to, if he or they had been herein expressly named and appointed.

Election of
new Com-
missioners.

III. And be it further enacted, That upon the Death, Resignation, or Refusal to act of any of the Commissioners herein-before named, or to be appointed as herein-before or herein-after directed, or in case any of them shall cease to be qualified as herein-after mentioned, (other than and except the Lord or Lords, Lady or Ladies of the said Manors of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra-parochial Place called *Welche's Dam*, and their respective Stewards or Agents for the Time being, and the Rectors and Vicars of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra-parochial Place called *Welche's Dam*, respectively for the Time being), it shall and may be lawful for the surviving or continuing Commissioners assembled at any Meeting to be held as herein-after mentioned, from Time to Time to appoint one other Person to be a Commissioner in the Place of each and every Commissioner so dying, resigning, or refusing to act, or becoming disqualified,

disqualified, but subject nevertheless to the Provision next herein-after contained; and every new Commissioner to be from Time to Time appointed as aforesaid, shall have the like Powers and Authorities for carrying this Act into Execution in all respects whatsoever, as the Commissioner in whose Room or Stead he shall be appointed, was invested with by virtue of this Act.

IV. Provided nevertheless, and be it further enacted, That the Number of Commissioners shall not exceed at any one Time Sixty in the Whole, exclusive of the Lord or Lords, Lady or Ladies of the respective Manors of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra-parochial Place called *Welche's Dam*, and their respective Stewards or Agents for the Time being, and the Rectors and Vicars of *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, and a certain extra-parochial Place called *Welche's Dam*, for the Time being respectively.

The Number of Commissioners never to exceed 60.

V. Provided also, That no Person appointed by this Act and to be appointed and elected as aforesaid, shall be deemed a Commissioner, or authorized or allowed or be competent to act as a Commissioner under this Act, unless such Persons shall be respectively Owners and Proprietors of at least Fifty Acres of free Land, not adventure Land, Part of the said Fen Land above described, save and except the said Lords and Ladies of Manors, and the said Rectors and Vicars, from whom no Qualification is hereby required, their Stewards and Agents.

Must be Owner of 50 Acres of free Land.

VI. And be it further enacted, That if any Person, or Lord or Lady of any Manor, not being so qualified as aforesaid, shall act as a Commissioner in the Execution of this Act, he or she 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 for the same in any of His Majesty's Courts of Record at *Westminster*, or in the Court of Pleas to be held within the *Isle of Ely*, by Bill, Plaint, Suit, or Information, wherein no Essoign, Protection, Privilege, or Wager of Law, nor more than one Impar lance shall be allowed; and in such Action or Suit it shall be only necessary for the Plaintiff or Informer to prove that the Defendant acted as such Commissioner in the Execution of this Act, and a Verdict shall be found against such Defendant, unless he shall prove in his Defence that he was at the Time of his so acting, properly qualified to act according to the true Inten and Meaning of this Act.

Penalty on Persons acting not being qualified.

VII. And be it further enacted, That the said Commissioners shall hold their First Meeting at the *Five Bells Inn* in *Upwell* aforesaid, on the Third *Wednesday* after the passing of this Act, at Eleven of the Clock in the Forenoon; and shall afterwards on the First *Wednesday* in *April*, in every Year, hold a General Meeting at some Public House in *Upwell, Welney, Denver, Maney, Doddington, Downham, Witchford, Wentworth, Chatteris*, or at a certain extra-parochial Place called *Welche's Dam* aforesaid; and any Five or more of the said Commissioners, although not assembled at a Meeting, may from Time to Time appoint any Special Meeting to be holden by Notice under their Hands, to be inserted One Week in the *Cambridge Chronicle and Journal*, and in some other Newspaper published or circulated in the Neighbourhood, and to be affixed upon the principal Outer Doors of the respective

Meetings of the Commissioners, when and where.

respective Churches or Chapels of the said several Parishes of *Upwell*, *Welney*, *Denver*, *Many*, *Doddington*, *Downham*, *Witchford*, *Wentworth*, and *Chatteris*, at least Seven Days before each Meeting; and that Five or more of the Commissioners shall constitute a Meeting, and that the Orders and Determinations of the Majority of the Commissioners present at any Meeting shall be considered as the Acts of all the said Commissioners, and the Commissioners present at any Meeting may adjourn the same as they may think proper; and that in case Five or more Commissioners shall not be present at the Time and Place appointed for holding any Meeting, any one Commissioner present, shall and may adjourn the same to another Day; and in case of Neglect or Omission to adjourn any Meeting, any Five of the said Commissioners or their Clerk shall and may call a Meeting at the Place where the last Meeting of the said Commissioners was appointed to be held or was held, by such Notice as aforesaid; and that all Powers and Authorities by this Act granted to or vested in the said Commissioners appointed or to be appointed by virtue thereof, shall and may from Time to Time be exercised by any Five of them, unless herein otherwise particularly provided; and the Commissioners present at every Meeting shall and may choose a President or Chairman, who in case of an Equality of Votes on any Question shall have another and a casting Vote.

Commissioners may appoint Committees and make Allowances to them.

VIII. And be it further enacted, That the said Commissioners at any General, Yearly, or Adjourned Meeting may appoint a Committee or Committees, if they may think necessary or useful in the superintending any Work or Works under Execution, each Committee to consist of not less than Three Commissioners, and to be invested with such Powers as the Commissioners at any Meeting may direct, and all Acts done by such Committee or Committees according to such Directions and Powers, shall be as effectual as if done by the Commissioners at any such Meeting, and such Committee shall be allowed from Time to Time such reasonable Expences in the Execution of such delegated Power as the Majority of the said Commissioners, at any Meeting to be holden under and by virtue of this Act shall think proper.

IX. Provided always nevertheless, That the Authority, Power, and Proceedings of such Committee or Committees may be altered, suspended, or annulled by the said Commissioners at any General, Yearly, or Adjourned Meeting.

Restrictions as to revoking Orders.

X. Provided always, and be it further enacted, That no Order or Proceeding had or made by the said Commissioners shall be revoked or altered unless at some Meeting to be held as aforesaid, and unless a Notice signed by Five or more Commissioners, stating their Intention to move at the then next Meeting that such Order or Proceeding may be revoked or altered, shall be inserted at least Two Weeks in the *Cambridge Chronicle and Journal*, and some other Newspaper circulated in the Neighbourhood, and affixed upon the Outer Doors of the respective Churches and Chapels aforesaid, at least Fourteen Days before such Meeting, and also unless a greater Number of Commissioners shall attend such Meeting than were present when such Order or Proceeding was made or had.

Expences of Meetings.

XI. And be it further enacted, That no Sum or Sums of Money shall be paid or allowed out of the Monies to be raised by virtue of this Act, for

for the Expence of the said Commissioners at any Meeting to be held as aforesaid.

XII. And be it further enacted, That it shall be lawful for the said Commissioners, from Time to Time to appoint a Clerk or Clerks, Treasurer or Treasurers, Surveyor or Surveyors, Receiver or Receivers, and Collector or Collectors of the Rates and Taxes, and such other Officers as the said Commissioners shall think necessary, and from Time to Time remove all or any of such Officers as they shall think fit, and appoint others in the Room of such as shall be so removed, or as shall die or resign their Office or be incapable of performing it, and shall take such Security for the due Execution of such respective Offices as they the said Commissioners shall think proper, and may by and out of the Monies to arise by virtue of this Act, allow and pay to such Clerks, Treasurers, Surveyors, Receivers, and Collectors, and to such other Person or Persons as shall be aiding or assisting to them in their respective Offices, or that shall anywise be employed in the Execution of this Act, such Salaries, Rewards, and Allowances for their respective Attendance, Care, and Service, as to the said Commissioners shall seem reasonable, and that such Treasurers, Receivers, Collectors, and other Officers shall fairly enter in Books to be by them respectively kept for that Purpose, an Account of all Monies by them respectively received and expended, specifying the Times when, and the Persons from whom and to whom, and for what Purposes such Monies were respectively received and paid, which Books or true Copies thereof respectively signed by the said Treasurer, Collector, or other Officers, together with the Vouchers for the Expenditure, shall be yearly and every Year produced and delivered to the said Commissioners at their Meeting to be held on the first *Wednesday* in *April*, in every Year, and at such other Times as they shall appoint; and the said Commissioners are hereby empowered to allow, pass, and sign such Accounts, or such Part or Parts thereof as to them shall seem correct and proper; and such Treasurer, Collector, or other Officers shall verify such Accounts upon Oath, (which Oath any of the Commissioners are hereby empowered to administer), and the same when so allowed shall be fairly entered in Two Books to be kept for that Purpose, one whereof shall be kept by the said Treasurer or the Clerk, and the other deposited in the Chest of the Parish Church of *Upwell*, and the same shall and may at all reasonable Times be inspected and perused by any Owner or Owners, Proprietor or Proprietors of any of the said Fen Lands, without Fee or Reward, and all such Officers and Persons shall and they are hereby required to pay all such Monies as upon the Balance of such Account or Accounts shall appear to be in their Hands, to such Person or Persons as the said Commissioners shall appoint to receive the same; and if any such Officer or Person shall refuse or neglect to render and give such Accounts as aforesaid, or to produce and deliver up the Vouchers and Receipts relating to the same, or to verify the Articles thereof upon Oath, or to pay the Balance remaining in their Hands when thereunto required in Manner aforesaid, or if any such Officers or Persons shall refuse or neglect to deliver up to the said Commissioners or to such Person or Persons as they shall appoint, within Ten Days after being thereunto required by the said Commissioners (such Officer or Person having first paid the Balance of all Monies if any due), all Books, Accounts, Papers, and Writings in their respective Custody or Power anywise relating to the Execution of this Act, every such Person shall forfeit and pay for every such Offence any Sum

Officers to be appointed, &c.

To give Security.

Salaries to Officers and Rewards, &c, for their Attendance, &c.

Books to be kept and Entries made.

Officers to account and give up all Books, &c.

not exceeding Twenty Pounds; and if Complaint shall be made of any such Neglect or Refusal to any Justice of the Peace for the County or Place where the Officer or Officers, Person or Persons so neglecting or refusing shall live and reside, such Justice may and he is hereby authorized and required by a Warrant or Warrants to cause such Officer or Officers, Person or Persons to be brought before him, and upon his or their appearing or not appearing, to hear and determine the Matter of such Complaint in a summary Way, and to settle the said Account or Accounts if produced, in such Manner as the said Commissioners might have done; and if upon the Confession of the Officer or Officers, Person or Persons against whom any such Complaint shall be made, or by the Oath or Oaths of any credible Witness or Witnesses, it shall appear to such Justice that any of the Monies which shall have been collected and received, shall be in the Hands of such Officer or Officers, Person or Persons, such Justice may and he is hereby authorized and required upon Non-payment thereof, by Warrant or Warrants under his Hand and Seal, to cause such Money and also such Penalties as aforesaid to be levied by Distress and Sale of the Goods and Chattels of such Officer or Officers, Person or Persons respectively; and if no Goods or Chattels can be found sufficient to answer and satisfy the said Money and Penalty, and the Charges of distraining and selling the same, or if such Officer or Officers, Person or Persons shall not appear before the said Justice at the Time and Place by him appointed for that Purpose, (except for some sufficient Excuse), or if appearing shall refuse or neglect to give or deliver to such Justice an Account or Accounts of the Receipts and Payments as aforesaid, or to verify the Truth of such Accounts and of the Articles thereof on Oath as aforesaid, or to produce and deliver up to the said Justice the several Vouchers and Receipts relating to such Accounts respectively, or the Books, Accounts, Papers, and Writings in their Custody or Power relating to the Execution of this Act, then and in either of the Cases aforesaid, the said Justice may and he is hereby authorized and required, by Warrant or Warrants under his Hand and Seal, to commit such Officer or Officers, Person or Persons to the common Gaol or Bridewell of the County, Division, Liberty, or Place where he or they shall live or reside, there to remain without Bail or Mainprize, until he or they shall have delivered in and settled his or their Accounts, and have verified the same on Oath, and shall have delivered up the Vouchers and Receipts relating thereto, and shall have paid all the Money which shall appear to be in his or their respective Hands, and such Penalty as aforesaid, and the reasonable Charges of such Distress and Sale as shall in that respect have been made, or until he or they shall have compounded with the said Commissioners for the same, and paid the Composition Money to the Commissioners or to such Person or Persons as they shall appoint to receive the same, (and which Composition the said Commissioners are hereby empowered to make), or until he or they shall deliver up such Books, Accounts, Papers, and Writings as aforesaid, or have given Satisfaction in respect thereof to the said Commissioners: Provided always, that no Person who shall be committed for want of sufficient Distress only shall be detained in Prison for any longer Time than Three Calendar Months.

Limiting the
Time of Im-
prisonment.

Tax to be
laid.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners, or any Five or more of them, at their first Meeting to be held after the passing of this Act, or at any Adjournment thereof, and from Time to Time at their Meeting to be held on the first *Wednesday* in *April*,
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in every succeeding Year, or at any Adjournment of such annual Meeting, to assess, rate, tax, and charge all and singular the said Fen Lands and Low Grounds within the Bounds described as aforesaid, with such annual Sum or Sums of Money as the said Commissioners shall think proper, not exceeding the Sum of One Shilling and Sixpence *per* Acre in any one Year, by an equal and proportionable Acre Tax, and to continue to assess, rate, tax, and charge the said Lands for such Number of Years and from Year to Year for such Period and as long as shall appear to the said Commissioners to be necessary for the providing sufficient Money for the repairing the said *Barrier Bank*, beginning at *Welche's Dam Bridge*, and from thence along the said Bank to the Place where the said *Barrier Bank* ends at *Salter's Lode*, and for improving the Outfall of the Waters through and out of the Wash of the Hundred Feet River, so as the said Part of the said *Barrier Bank* may not be endangered by the Height to which the Waters in the said Wash may now or hereafter rise, and for carrying into Execution the other Purposes of this Act.

XIV. And whereas there may be Lands within some of the Parishes or Townships herein-before mentioned, or in some extra-parochial Place or Places by this Act authorized to be charged with the said Tax, which will not derive any Benefit by the said intended Drainage, and therefore ought not to be contributory to the Expence thereof; be it therefore further enacted, That if any Person or Persons being Owners, Lessees, or Occupiers of any Lands within the said Parishes, Townships, or Places, or any of them, shall be of Opinion that any of such Lands will not derive any Benefit by the Reparation of the said *Barrier Bank*, and the Improvement of the said Outfall, and ought therefore to be exempted from the Payment of the said Tax, such Person or Persons shall deliver to the said Commissioners or their Clerk, at or before the annual Meeting to be holden on the first *Wednesday* in *April* next after the passing of this Act, an Account in Writing of all such Lands which he, she, or they require to be exempted from the said Tax, then Three Persons not interested in the said Premises, shall be nominated and appointed at a General Meeting of the said Commissioners, of which publick Notice shall be given in the *Cambridge Chronicle and Journal*, and in some other Newspaper circulated in the Neighbourhood, to view the said Lands, and to enquire into the State and Condition thereof, one of which Persons shall be nominated by the said Commissioners, one other by the several Persons claiming such Exemptions, and the third Person by such Two Persons to be chosen as aforesaid, all of whom shall upon their Oaths well and truly view, examine into, and determine whether such Lands ought or ought not to be rated by virtue of this Act, which Oath any Commissioner shall have full Power to administer, and the said Three Referees, or any Two of them, shall deliver to the said Commissioners and such Claimants respectively, their Determination in Writing, within Three Months next after such Reference, whose Judgement in the Premises shall be final and conclusive to all Parties; the Costs and Charges of which said Reference shall be paid and borne by the said Commissioners, and the Persons claiming the said Exemption, in such Proportions as the said Referees shall determine.

Owners of certain Lands not to be charged.

XV. Provided always, That none of the said Lands or Grounds shall be exempt from the Payment of the said Rates or Taxes which are now rated,

Lands now rated under Commission.

ers of Sewers
not to be ex-
empt.

rated, taxed, or charged by virtue of or under any Commission of Sewers, or with the Repairs of any Mill, Bank, Drain, or Sluice for draining or preserving the said Lands or Grounds.

Tenants to
pay Taxes
and deduct
them from
their Rents.

XVI. And, to the End that the said Rates and Taxes may be more easily and effectually collected and received, be it further enacted, That all and every the Tenants and Occupiers of the said Fen Lands and Low Grounds which shall be assessed, rated, taxed, or charged by virtue of this Act, shall and they are hereby authorized and required to pay all and every such Sum and Sums of Money as shall be so assessed, rated, taxed, or charged on the Lands and Grounds in their respective Occupations, and to deduct and retain out of his, her, or their Rents, all such Sum or Sums of Money as he, she, or they shall so respectively pay as aforesaid; and the several and respective Landlords or Owners of such Lands and Grounds are hereby required to allow such Deduction and Payment upon the Receipt of the residue of their Rents, and that every such Tenant or Occupier paying such Rate or Tax shall be acquitted and discharged of so much Money as the said Rate or Tax so paid by him, her, or them respectively shall amount unto, as fully and effectually as if the same had been actually paid to his, her, or their Landlord or Landlords, except where there is or may be a Lease or Agreement to the contrary.

But not to
deduct Penal-
ties.

XVII. Provided nevertheless, and be it further enacted, That where any Penalty or Penalties shall have been incurred for Non-payment of any Tax or Taxes by virtue of any of the Provisions herein contained, and such Penalty or Penalties shall have been levied by the said Commissioners upon the Goods, Chattels, or Stock of any Person or Persons occupying any of the said Fen Lands or Low Grounds, or where such Penalty or Penalties shall have been paid by such Occupier or Occupiers, all and every such Penalty and Penalties, together with the Costs, Charges, and Expences of taking such Distress or Distresses, (where any such Distress or Distresses shall have been taken), shall be borne and sustained by such Occupier or Occupiers respectively; and the Landlord or Owner, Landlords or Owners of such Fen Lands and Low Grounds, shall not be compelled or compellable to allow or pay any such Penalty or Penalties, or Expences to such Occupier or Occupiers; any Thing herein contained to the contrary thereof in anywise notwithstanding.

Certain Les-
sees not al-
lowed to
deduct their
Taxes.

XVIII. Provided always, and be it further enacted, That no Lessee or Tenant of any of the said Fen Lands or Grounds who shall hold the same by virtue of or under any Lease from any Bishop or Collegiate Church or College, or any Ecclesiastical Corporation sole or aggregate, or by virtue of or under any other Lease or Agreement, of which said Lease or Agreement at the Time of passing this Act, there shall be more than Seven Years to come and unexpired, shall be entitled to deduct the Rates or Taxes which shall be charged under the Authority of this Act, or any Part thereof, out of the Rent reserved or made payable by any Lease or Agreement, but that the said Rates and Taxes shall be charged upon and paid by the Lessees or Tenants so holding such Fen Lands or Grounds as aforesaid.

Recovery of
Taxes.

XIX. And be it further enacted, That in case Default shall be made by any Person or Persons liable to the Payment of any such Rates and Taxes as aforesaid, in his, her, or their respective Payments to the Collector or Collectors,

Collectors, Receiver or Receivers thereof, on the Day and at the Place to be appointed by the said Commissioners for such Payments in a Notice to be inserted in the *Cambridge Chronicle and Journal*, and some other weekly Paper published or circulated in the Counties of *Cambridge* and *Norfolk*; any or either of them, as the Case may be, and also affixed upon the several Church or Chapel Doors of the several Parishes of *Upwell*, *Welney*, *Denver*, *Maney*, *Doddington*, *Downham*, *Witchford*, *Wentworth*, and *Chatteris* aforesaid, any Person making such Default, shall forfeit and pay, together with the Assessment, Rate, or Tax, Three Shillings and Fourpence for every Twenty Shillings of such Assessment, Rate, or Tax for which Default shall be made, and so in Proportion for any greater or less Sum than Twenty Shillings, to be recovered in the same Manner, as and with the Assessment, Rate, or Tax; and in every Case of any Default in making Payment, it shall be lawful for the said Collector or Collectors, Receiver or Receivers, or any other Person or Persons, by virtue of any Warrant or Precept under the Hands of any Three or more of the said Commissioners, which said Warrant or Precept the said Commissioners, or any Three or more of them, are hereby empowered and required to make and give as there shall be Occasion, either at a Meeting of the said Commissioners, or at any other Time, to levy the Sum or Sums of Money by him, her, or them payable and then due for such Rate or Tax as aforesaid, and for the Penalties (if any) incurred by the Non-payment thereof by Distress of the Goods, Chattels, and Cattle of such Person or Persons wherefoever the same shall be found, and the said Goods, Chattels, and Cattle to impound, sell, and dispose of until thereby or therewith the Rates or Taxes and Penalties then due, and the Costs and Charges attending such Distress and Sale, shall be fully paid and discharged, returning the Overplus (if any) to the Owner or Owners of such Goods, Chattels, and Cattle so distrained and sold on Demand.

XX. Provided always, and be it further enacted, That the said Commissioners shall, and they are hereby required to ascertain the Number of Acres of the Lands intended to be rated by virtue of this Act; in Manner following, (that is to say) the Lands comprized in various Districts, according to the respective Surveys made or to be made of such Districts, and for want of such Surveys then by the Number of Acres such Lands have been usually rated at in any of the District Books in any of the Manors or Parishes herein-before mentioned, or in any extra parochial Place subject to Inundations and Drainage as aforesaid; and in case the said Commissioners shall not be able to obtain from the Owners or Occupiers of any of the said Lands, the Number of Acres in their respective Occupations, it shall and may be lawful to and for the said Commissioners to direct a Survey to be made in order to ascertain and determine the same, and so from Time to Time, and as often as the said Commissioners shall think proper, such View or Survey to be taken by such Person or Persons as the said Commissioners shall appoint, and such Person or Persons respectively so to be nominated and appointed, before he or they proceed to determine the Quantity of such Lands and Grounds, shall take an Oath well and truly to the best of his or their Judgment and Knowledge, to determine the Quantity of such Lands to be rated or taxed by virtue of this Act, (which Oath any One of the said Commissioners is hereby empowered to administer) and the Survey so made as aforesaid shall be final and conclusive, and he or they shall set forth his or their Survey in Writing, and shall sign and deliver the same to

Commissioners to ascertain what Lands are to be rated.

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the said Commissioners at any of their Meetings to be holden under this Act, which shall be by them deposited in the Place where their Books and Proceedings shall be kept; and the Expences attending all such Surveys shall be borne and paid in equal Proportions by the said Commissioners and the Owners or Occupiers of the said Lands.

Lands untenanted to remain a Security for Taxes, &c where no sufficient Distress can be made.

XXI. Provided always, and be it further enacted, That in case any of the said Lands shall at any Time hereafter be untenanted or unoccupied, so that no sufficient Distress can be made for levying the Rates or Taxes hereby charged, and the Penalties to be incurred for Non-payment thereof, then the said Lands which shall be so charged therewith, shall always remain a Security for Payment thereof, and all Goods, Chattels, and Cattle which shall at any Time thereafter be found thereon, shall and may be distrained, impounded, kept, and sold in Manner aforesaid, until all Arrears of the said Rates and Taxes with the Penalties thereon, and the Charges incident to such Distress and Sale shall be fully paid and satisfied.

Empowering Commissioners to borrow Money.

XXII. And be it further enacted, That it shall be lawful for the said Commissioners, or the major Part of them, assembled at the First Meeting to be holden after the passing of this Act, and at any General Yearly Meeting, (at which Meeting Eleven Commissioners at least shall be present) and they are hereby empowered from Time to Time to borrow any Sum or Sums of Money not exceeding in the whole Seven thousand Pounds, which they shall think necessary for the several Purposes of this Act, and by Writing under their Hands and Seals to assign over the said Rates and Taxes as a Security for the Repayment of such Sum and Sums of Money, with lawful Interest for the same, to the Person or Persons who shall advance and lend the same, or to his or their Trustee or Trustees, Executors, Administrators, or Assigns; and all and every such Person or Persons to whom any such Mortgage or Assignment thereof shall be made, shall be in Proportion to the Sum or Sums therein respectively mentioned Creditor and Creditors on the said Rates and Taxes hereby charged in equal Degree one with another, and shall have no Preference in respect of the Priority of advancing any such Sum of Money; and that every such Mortgage or Assignment hereafter to be made, shall be made for the Sum of One hundred Pounds only, and shall be entered in a Book or Books to be kept for that Purpose by the Clerk or Clerks to the said Commissioners, and the Costs and Charges of every such Assignment shall be paid by the said Commissioners out of the Monies to arise by virtue of this Act.

Securities to be entered in a Book.

Power of Commissioners to lend Money to the Bedford Level Corporation, and take Assignment of Bond, &c.

XXIII. Provided always, and be it further enacted, That it shall and may be lawful for the said Commissioners assembled as aforesaid, to advance and lend out of the said Rates, Taxes, and Assessments, or any Money arising therefrom, or which may be raised or borrowed upon the Credit thereof under this Act, to the Governor, Bailiffs, and Conservators of the *Bedford Level*, any Sum or Sums of Money to be laid out and expended as herein-after mentioned; and the said Commissioners, as a Security for the Repayment of such Sum and Sums of Money so lent and advanced, to take Assignments of Corporation Bonds or fresh Bonds for any such Sum or Sums of Money advanced since the First Day of *March* One thousand eight hundred and nine, to the said Corporation, and applied for the same Purpose.

XXIV. And

XXIV. And be it further enacted, That it shall be lawful for all and every Person and Persons to whom any such Mortgage or Assignment shall be made as aforesaid, or who shall be entitled to the Money thereby secured, to assign or transfer his, her, or their Mortgage or Security, and Right to the Principal Money and Interest thereby secured to any other Person or Persons, and that every such Assignment or Transfer shall be notified within Three Calendar Months after the Date thereof to the Clerk or Clerks to the said Commissioners, who shall enter a Copy or Memorial thereof in the said Book or Books to be kept by him for entering the original Mortgages or Assignments, for which he or they shall be paid the Sum of Two Shillings and Sixpence and no more, and that after such Copy or Memorial shall be so entered, and not before, every such Assignment or Transfer shall entitle the Assignee or Assignees therein named, to the Benefit of the original Mortgage or Assignment so assigned or transferred to him or them, and to the Payment of the Monies due or to grow due thereon; and that every such Assignee or Assignees shall and may in like Manner from Time to Time assign or transfer his, her, and their Right and Interest therein and thereto to any other Person or Persons whomsoever.

Mortgagees
may assign
their Secu-
rities.

XXV. And be it further enacted, That the said Assessments, Rates, and Taxes to be assessed and charged under the Authority of this Act, and the Monies so to be borrowed as aforesaid, and all other Monies which shall come to the Hands of the said Commissioners by virtue of this Act, shall be vested in and applied and disposed of by the said Commissioners, in the first place, towards paying and discharging the Costs, Charges, and Expences of obtaining and passing of this Act, and lawful Interest for all such Monies as shall be advanced by any Person or Persons whomsoever, for Payment of Fees and other Expences attending the obtaining and passing the same; and also all such other Sum or Sums of Money as have been advanced by *Richard Greaves Townley, George Jenyns and Jonathan Townley Clerks, Thomas Wright, James Lee, John Clark, Thomas Tombleson, Hugh Wooll, James Failes, Robert Smart, Joseph Glemenson, William Lee, John Crofs, William Whitting, Thomas Martin, Henry Gascoyne, William Dunstan, John Hills, John Failes, William Plummer Atkinson, Thomas Baker, Thomas Skeels, Richard Orton, Thomas Orton, Morley Beart, Matthew Snelling, Edward Lavender, William Rogers, Emanuel Hodson, John Palmer, Matthew Failes, and John Gotobed*, for the Reparation of the said Bank during the last Summer, together with lawful Interest for the same, to the End that the said Fen Lands and Low Grounds might in some Degree be protected and preserved from Inundation until after the passing of this Act; and for the more complete and thorough Security of the said Fen Lands and Low Grounds, the said Commissioners are hereby empowered to join and assist the said Corporation in making, repairing, maintaining, and preserving the said *Barrier Bank*, beginning at *Welshe's Dam Bridge*, and from thence along the said Bank to the Place where the said *Barrier Bank* ends at *Salter's Lode*, in such Way and to such Height, and of such Batter and Slope as to the said Commissioners shall appear necessary to protect the said Fen Lands and Low Grounds hereby taxed from a Breach of any Part of the said Part of the said *Barrier Bank*, and also in making and doing such other Works as may appear to the said Commissioners beneficial to the said Lands and Grounds, for the Purpose of discharging the Waters out of the *Hundred Feet Wash*, so that the same may not be endangered or injured by the Height to which the Waters now do or hereafter may

Application
of Taxes and
Monies bor-
rowed.

arise in the said *One Hundred Feet Wash*; and the said Commissioners are hereby also empowered by and out of the said Tax of One Shilling and Sixpence *per Acre*, to join and co-operate with the said Corporation, or with any other Person or Persons, in any other Way, or to do any other Acts for the Improvement of the said Part of the said *Barrier Bank*, and for the Improvement of the Discharge of the Waters out of the said *One Hundred Feet Wash*, so as the said Part of the said *Barrier Bank* may not be endangered by the Height to which the Waters in the Wash may now or hereafter rise: Provided always, that nothing in this Act contained shall authorize the said Commissioners to join and assist the said Corporation, nor any other Person or Persons to join in the Execution of any Works upon the River *Ouze*, below *Salter's Lode Sluice*.

Taxes vested
in Creditors.

XXVI. Provided always, and be it further enacted, That the said several Rates and Taxes to be assessed, rated, taxed, or charged, and chargeable with and for the Payment of all and every Sum and Sums of Money which have been advanced as aforesaid, and which the said Commissioners shall at their First Meeting to be holden as aforesaid, borrow on Security of the said Rates and Taxes, or may hereafter borrow under the Authority of this Act, and the Interest of such Monies respectively from Time to Time, and shall vest in the respective Creditors upon Default in Payment of such Sum or Sums of Money and the Interest thereof, until the same, together with the Costs and Charges occasioned by the Non-payment thereof, shall be fully paid and satisfied; and the said Creditors respectively and their respective Executors, Administrators, and Assigns shall have the same Powers, Rights, and Privileges of raising and recovering the said Rates and Taxes for the satisfying and discharging to them such Sum or Sums of Money and the Interest thereof, if Default shall be made in Payment thereof, as the said Commissioners or their Collector or Collectors, Receiver or Receivers had or would have had by virtue of this Act, in case the same had been regularly paid and satisfied.

Commission-
ers may sue
or be sued in
the Name of
their Treas-
urer or Clerk.

XXVII. And be it further enacted, That the said Commissioners may sue or be sued in the Name of the Treasurer or Clerk, and that it shall and may be lawful for the said Commissioners to commence or bring or cause to be commenced and brought any Action or Suit in any of His Majesty's Courts of Record at *Westminster*, or in the Court of Pleas for the said *Isle of Ely*, by Action of Debt or on the Case or otherwise, for the Recovery of any Penalty or Penalties by this Act imposed, which respectively amount to or exceed the Sum of Fifty Pounds, in which Action or Suit it shall only be necessary for the Plaintiff to prove that the Defendant or Defendants had actually committed the Offence for which the Penalty sued for shall have been incurred, and such Plaintiff shall recover such Penalty with full Costs of Suit; and that no Action to be brought by or against the said Commissioners, or any of them, by virtue of this Act, shall abate or be discontinued by the Death or Removal of any such Treasurer or Clerk, but that the Treasurer or Clerk for the Time being to the said Commissioners shall always be deemed the Plaintiff or Defendant in such Action, as the Case may be.

Penalties
above 50l. to
be recovered
by Action.

Actions not
to abate on
the Death or
Removal of
the Treasurer
or Clerk.

Recovery and
Application
of Penalties.

XXVIII. And be it further enacted, That all Penalties and Forfeitures by this Act imposed, (the Recovery whereof is not hereby otherwise directed) and all Costs and Charges attending the Recovery thereof, shall be levied and

and recovered by Distress and Sale of the Goods, Chattels, and Stock of the Offender or Offenders wheresoever the same shall be found, by Warrant under the Hand and Seal or Hands and Seals of one or more Justice or Justices of the Peace for the County, Division, Liberty, or Place wherein the Offence shall have been committed, (which Warrant such Justice or Justices is and are hereby authorized and empowered to grant), as often as shall be necessary, upon the Confession of the Party or on the Information of any credible Witness upon Oath; and in case no sufficient Distress can be found, such Justice or Justices shall issue a Warrant or Warrants under his or their Hand and Seal or Hands and Seals for the apprehending of such Offender or Offenders, and shall commit such Offender or Offenders when brought before him or them, to the common Gaol or House of Correction for the County, Division, Liberty, or Place wherein such Offence shall have been committed, there to remain without Bail or Mainprize for any Term not exceeding Six Calendar Months, at the Discretion of such Justice or Justices; and all Penalties and Forfeitures by this Act imposed, if not hereby otherwise directed to be paid and applied, shall be paid to the Treasurer, Collector, or Receiver to the said Commissioners, and applied for the same Purposes as the Rates and Taxes charged upon the said Fen Lands and Low Grounds are by this Act directed to be paid and applied.

XXIX. And be it further enacted, That if any Person or Persons or Body or Bodies Politick, Corporate or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of this Act, then and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said *Isle of Ely* or Counties of *Cambridge* and *Norfolk*, as the Case may be, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Clerk of the said Commissioners Fourteen Days Notice in Writing of such Appeal, and the Matters thereof; and the Justices (not interested in the Premises), at their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of such Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without sufficient Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to the said Justices in their Discretion shall seem reasonable, and to be levied in the Manner aforesaid.

XXX. And be it further enacted, That where any Distress shall be made by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers on Account of any Defect or Want of Form in any Proceeding relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser

[*Loc. & Per.*]

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or

Distress not
unlawful for
Want of
Form.

or Trespassers *ab initio* on Account of any Irregularity which shall be done by him or them, but the Person or Persons aggrieved by such Irregularity may recover full Satisfaction for the Special Damage in an Action on the Case.

Commissioners being Justices may act as such in the Execution of this Act.

Commissioners may administer an Oath.

XXXI. And be it further enacted, That all such of the said Commissioners as are or shall be Justices of the Peace may act as Justices in all Matters under the Authority of this Act, except where personally interested, notwithstanding their being Commissioners; and that in all Cases where any Parties (Witnesses or other Persons) are to be heard or examined by or before, or in the Presence of the said Commissioners in any Matter or Thing relating to this Act, it shall be lawful for any one of the said Commissioners to administer an Oath, to or take the Affirmation of such Parties, Witnesses, or Persons.

Limitation of Actions.

General Issue.

Treble Costs.

XXXII. And be it further enacted, That no Action or Suit shall be commenced against any Person or Persons for any Thing done in pursuance of this Act, until Twenty-one Days Notice thereof shall be given to the Person or Persons against whom such Action or Suit shall be intended to be brought, or after sufficient Satisfaction or Tender thereof hath been made to the Party aggrieved, or after Six Calendar Months after the Fact committed, and shall be laid or brought in the Court of Pleas of the said *Isle of Ely*, or in the respective Counties of *Cambridge* or *Norfolk*, as the Case may be, and not elsewhere; and the Defendant or Defendants in every such Action or Suit shall and may plead the General Issue, and if in Replevin may justify and avow by virtue of this Act, as Persons acting by Authority of Commissioners of Sewers are enabled to do, and may give this Act and the special Matter in Evidence without specially pleading the same, otherwise than as aforesaid, at any Trial to be had thereupon, and that the Fact alledged in such Action or Suit to have been done in pursuance and by the Authority of this Act was so done; and if the same shall appear to have been so done, or if any Action or Suit shall be brought after the Time limited for bringing the same, or after sufficient Satisfaction or Tender thereof shall have been made as aforesaid, or shall be brought in any other County or Place than as aforesaid, then the Jury shall find for the Defendant or Defendants, Avowant or Avowants, or if the Plaintiff or Plaintiffs shall be nonsuited or forbear Prosecution or discontinue his, her, or their Suit or Suits, or if any Verdict shall pass against him, her, or them upon a Demurrer or otherwise, then and in any of the said Cases the Defendant or Defendants, Avowant or Avowants shall recover Treble Costs, for which he, she, or they shall have the like Remedy as where Costs by Law are awarded.

Saving Rights of Corporation of Bedford Level.

XXXIII. Provided always, and be it further enacted, That this Act or any Thing herein contained shall not extend or be construed to extend to invalidate, lessen, diminish, alter, or take away any of the Rights, Powers, and Authorities vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*; or in the Governor, Bailiffs, and Conservators of the said Company by virtue of an Act made in the Fifteenth Year of the Reign of King *Charles the Second*, intituled, *An Act for settling the Draining of the Great Level of the Fens called Bedford Level*; or by virtue of any other Act or Statute whatsoever; but that all Rights, Powers, and Authorities whatsoever,

ever, which by virtue of the said Act of the Fifteenth of King *Charles* the Second, or of any other Act or Statute whatsoever or otherwise, now are vested in the said Governor, Bailiffs, and Conservators and every of them, shall for ever hereafter remain, continue, and be in the said Governor, Bailiffs, and Commonalty, and in the said Governor, Bailiffs, and Conservators, and every of them, as fully and amply to all Intents and Purposes, as if this Act had never been made.

XXXIV. Provided always, and be it further enacted, That all such Rights or Right as are now vested in any Lord or Lords, Lady or Ladies of any Manor or Manors, Liberties, Hundred, or Half-Hundred, within or without the said Fen Lands and Low Grounds, to Waifs, Estrays, Felons Goods, Privileges of Arrest, Escheats, and all Royalties not prejudicial to Drainage, shall be and are hereby saved to them, their Heirs, Successors, and Assigns, any Thing in this Act contained to the contrary thereof notwithstanding. Saving Rights of Lords and Ladies of Manors.

XXXV. Provided always, and be it further enacted, That nothing in this Act or any Thing herein contained, shall extend or be construed to extend to render or make liable the said Proprietors and Owners of any of the said free Lands with the Reparation, Maintenance, or Improvement of the said *Barrier Bank* and *Outfall*. Saving Rights of the Proprietors and Owners of free Lands.

XXXVI. And be it further enacted, That this Act shall be deemed Publick Act, and taken to be a Publick Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded. Publick Act.

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