



CHAPTER cli.

An Act for subjecting lands within the Black Sluice Level to further Taxation for Outfall Improvements, and for increasing the Area of Taxation; and for other purposes.

A.D. 1880.

[6th August 1880.]

WHEREAS an Act was passed in the fifth year of the reign of King George the Third (1765), intituled “An Act for draining and improving certain low marsh and fen lands lying between Boston Haven and Bourn, in the parts of Kesteven and Holland, in the county of Lincoln” (in this Act referred to as the “Act of 1765”):

5 Geo. 3.
c. lxxxvi.

And whereas another Act was passed in the tenth year of the reign of King George the Third (1770), intituled “An Act for amending and rendering more effectual an Act made in the fifth year of the reign of His present Majesty, intituled ‘An Act for draining and improving certain low marsh and fen lands lying between Boston Haven and Bourn, in the parts of Kesteven and Holland, in the county of Lincoln,’ and for improving the navigation through the said lands” (in this Act referred to as the “Act of 1770”):

10 Geo. 3.
c. xli.

And whereas another Act was passed in the tenth year of the reign of Her present Majesty (1846), intituled “An Act for better draining and improving certain low marsh and fen lands lying between Boston Haven and Bourn, in the county of Lincoln, and for further improving the navigation through such lands” (in this Act referred to as “the Act of 1846”):

9 & 10 Vict.
c. cccxvii.

And whereas another Act was passed in the thirteenth year of the reign of Her present Majesty (1849), intituled “An Act to alter and amend the provisions of the several Acts relating to the Black Sluice Drainage; to extend the time by the Black Sluice Drainage Act, 1846, limited for the completion of the works; to authorise the levying and raising of further rates and moneys; to alter existing rates and tolls; and for other purposes” (in this Act referred to as “the Act of 1849”):

12 & 13 Vict.
c. lix.

A.D. 1880.

— And whereas the provisions of the Act of 1765 and the Act of 1770 have been altered and extended by the Act of 1846 and the Act of 1849 :

And whereas all the said recited Acts relate to the same district of land, denominated the Black Sluice Level, and are executed and put in force by the same body of Commissioners, called "The Black Sluice Commissioners" (in this Act referred to as "the Commissioners") :

And whereas by the Act of 1846 various and extensive works were authorised for the improvement and drainage of the said lands and the navigation of the drains through the same, and by that Act and the Act of 1765, the Act of 1770, and the Act of 1849, certain rates and taxes were authorised to be charged on the said lands for the purpose of defraying the expenses of executing and maintaining works, and for discharging debts which had been contracted under the authority of and for the purposes authorised by the Act of 1846, the Act of 1765, and the Act of 1770 :

And whereas the works authorised by the Act of 1846 have been completed :

And whereas the Commissioners have borrowed one hundred and fifty-two thousand pounds on the credit of the taxes, tolls, and revenue of their trust, and have paid off fifty-four thousand pounds, and the sum of ninety-eight thousand pounds remains owing on the credit of their taxes, tolls, and revenue :

And whereas by reason of the necessary repair and renewal of works, the charges upon the income of the Commissioners have been greatly increased, and such income is now barely sufficient to meet the annual expenses of the trust, and to maintain the works in an efficient state; and it is expedient that provision should be made for meeting such annual expenses and maintenance as in this Act provided :

And whereas the drainage and flood waters collected from the lands in, above, and adjoining the Black Sluice Level, and from the lands in the Witham Drainage Districts, and from other lands in the Upper District of the River Witham, are all discharged into the said river and conveyed thence into the sea; but by reason of the defective state of the channel of the river and the difficulty of outfall, the discharge of water from the said river is impeded, and in time of heavy rain and flood the lands in the Black Sluice Level and other lands are subject to inundation, and great injury is thereby caused to such lands and the crops thereon :

And whereas the said lands would be greatly benefited by the widening, deepening, and improving of the River Witham below the Grand Sluice at Boston, and the construction of a new cut or

channel from Hobhole Sluice to Clayhole would increase the fall and otherwise facilitate the passage and discharge of water into the sea, and it is just and reasonable that the lands in the Black Sluice Level and other lands discharging drainage or flood water into the River Witham should contribute to the costs of constructing and maintaining such works, and that other lands draining into and using the drains and works of the Commissioners or the River Witham Outfall should be brought within the Black Sluice Level for the purposes of this Act and become liable to be taxed for and to contribute towards the costs of such works :

A.D. 1880.

And whereas the purposes aforesaid can be best effected by assessing with a uniform acreage tax all lands within the limits of the Black Sluice Level as defined by the recited Acts, and all lands near thereto discharging their flood waters into the drains and works of the Commissioners or into the River Witham :

And whereas the General Commissioners for Drainage by the River Witham are applying to Parliament for authority to construct a new cut and other works for improving the outfall of the River Witham and constituting a joint board for executing such works, consisting of representatives of the General Commissioners, the Commissioners, and the Corporation of Boston acting as the Commissioners of the port and harbour of Boston ; and it is expedient that the Commissioners should be empowered to contribute to the costs of such outfall improvement works, that their jurisdiction for taxation should be extended, that further powers for taxation should be conferred upon them for that purpose, and for raising further sums of money :

And whereas it is expedient that some of the powers and provisions of the recited Acts should in divers particulars be altered, amended, and extended :

And whereas the objects aforesaid cannot be attained 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 :

1. That all the powers and provisions of the recited Acts, or any of them, so far as the same are now unrepealed, and except such of those powers and provisions as are by this Act expressly repealed, altered, or otherwise provided for, shall, when the same are or can be applicable to the objects and purposes of this Act, extend and be construed to extend thereto and to the provisions of this Act, and the construction and interpretation thereof, and to the several

Construction
of Act.

A.D. 1880. matters and things hereby authorised to be done, and to all actions, suits, and proceedings under this Act as fully and effectually to all intents and purposes whatsoever as if the same powers, provisions, and enactments were repeated and enacted in this Act, and had formed part thereof, and with respect to the recovery of any moneys payable to the Commissioners as if any proceedings under this Act for recovery thereof were actions, suits, or proceedings under the recited Acts.

Short title. 2. This Act may be cited for any purpose as the Black Sluice Drainage Act, 1880.

Interpreta-
tion of terms. 3. In this Act the following words and expressions shall have the meaning hereby assigned to them respectively, unless there be in the subject or the context something repugnant to or inconsistent with such construction ; (that is to say,)

“Outfall improvement works” means any improvements of the River Witham below the Grand Sluice at Boston, and any new cut or channel or other works for facilitating the passage of the waters of that river into the sea which may be authorised by Parliament :

“Outfall Board” means the Board constituted and appointed under the authority of Parliament for carrying any outfall improvement works into execution ;

“Recited Acts” means “the Act of 1765,” “the Act of 1770,” “the Act of 1846,” and “the Act of 1849,” or any of those Acts.

Power to
contribute
to outfall
improve-
ments. 4. The Commissioners shall be liable and are hereby authorised to contribute to the expenses of the execution and maintenance of the outfall improvement works to such extent and in such manner as is herein-after provided.

New outfall
tax on all
lands in
Level. 5. From and after the tenth day of October one thousand eight hundred and eighty, all lands within the limits of the Black Sluice Level as defined by the recited Acts shall, in addition to any taxes payable under the recited Acts, be and they are hereby charged with an acreage tax not exceeding one shilling per statute acre in any one year, to be called “the New Outfall Tax,” as the Commissioners may from time to time determine, which shall be assessed, collected, levied, and recoverable by the Commissioners, their collectors, agents, and officers, from the like persons, at the same times, and by the like ways and means as the taxes payable under the recited Acts are now assessed, collected, levied, and recovered.

Additional
lands to be
taxed. 6. And whereas certain lands adjoining or near to the Black Sluice Level, situate within the several parishes, townships, hamlets,

A.D. 1880.

and places of Boston, Boston-West, Skirbeck, Skirbeck-Quarter, Wyberton, Frampton, Kirton, Wigtoft, Brothertoft, Swineshead, Gibbett-Hills, Harts-Grounds, Quadring, Donington, Bicker, Gosherton, Surfleet, and Pinchbeck, in the parts of Holland, and so much of South Kyme and Dogdyke, in the parts of Kesteven, in the county of Lincoln, as drain through the tunnels passing under the Kyme Eau, or such parts of such several lands as are shown on two maps or plans and coloured red, authenticated by the signature of the Right Honourable the Earl of Devon (the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred), one of which plans is deposited at the office of the Clerk to the Commissioners in Donington, in the parts of Holland, in the county of Lincoln, and the other of such plans in the office of the Clerk of the Parliaments, which lands are now chiefly drained by means of works of the Commissioners, and will hereafter be greatly benefited by the said outfall improvement works; and it is just that such lands should in common with other lands in the Black Sluice Level be charged with payment to the Commissioners of the New Outfall tax by this Act authorised: Therefore the Commissioners are hereby empowered, from and after the tenth day of October one thousand eight hundred and eighty, to annex such lands, and such lands are hereby for the purposes of this Act only annexed to and form part of the Black Sluice Level, and shall be called "the New Outfall District," and shall be charged with the payment of the New Outfall tax by this Act authorised to the Commissioners in common with the other lands in the Black Sluice Level: Provided always, that any land which may be charged with the New Outfall tax under this Act, situate within the third class of the Welland Drainage District, and now chargeable with the drainage tax to the Welland Trustees of fourpence per acre, shall be allowed the same as a drawback from the New Outfall tax by this Act authorised.

7. The New Outfall tax by this Act authorised shall be assessed, collected, levied, and recovered in the same manner and payable at the same times as the taxes payable under the recited Acts are now assessed, collected, levied, and paid, and shall be applied for the purposes of this Act only.

Recovery of
New Outfall
tax.

8. The New Outfall tax by this Act charged may, when and so soon as the whole of the money borrowed under the authority of this Act shall be repaid, be reduced, and if reduced again increased in all respects and in like manner and subject to the like provisions and restrictions as are in the Act of 1846 contained with respect to the reduction and increase of the drainage taxes thereby made subject to reduction and increase: Provided always, that the said

New Outfall
tax may be
reduced and
again in-
creased.

A.D. 1880. tax shall not at any time be increased above the sum by this Act authorised to be raised and assessed.

New Outfall tax paid by occupiers may be deducted from the rent, but such reduction not to include penalties.

9. Every occupier (not being the owner of the lands in his occupation) who shall pay the New Outfall tax granted by this Act may deduct such taxes from his rent, unless he shall hold such lands under a lease not at rackrent: Provided always, that nothing herein contained in respect of such power to deduct tax from rent shall affect any contract between owner and occupier: Provided also, that if any penalties shall have been incurred and levied or paid under the provisions of this Act by any occupier for non-payment of tax, such penalties, together with the costs, charges, and expenses of taking and disposing of any distress, shall be borne by such occupier, and the owner shall not be compelled to allow or pay any such penalties, costs, charges, or expenses to such occupier.

Separate accounts to be kept.

10. The Commissioners shall for the purposes of this Act keep separate and distinct accounts of all moneys received and paid by them under the provisions of this Act, and such accounts shall be subject to the same provisions as are contained in the recited Acts with reference to the preparation and audit of the accounts of the Commissioners.

Power to borrow 65,000*l.* on credit of New Outfall tax.

11. The Commissioners may from time to time borrow at interest any sum or sums of money, not exceeding in the whole (in addition to the sum or sums which the Commissioners are authorised to borrow by virtue of the recited Acts) the sum of sixty-five thousand pounds, on the credit of the New Outfall tax payable to the Commissioners under this Act, and any moneys which may be borrowed under the powers of this Act may be secured in the manner and with all or any of the powers and provisions in that behalf provided in or authorised by the Act of 1846 as to the moneys thereby authorised to be borrowed, but including in the securities only the tax by this Act made payable and the sinking fund hereby provided for discharge of debt on the New Outfall tax by this Act authorised; and all the provisions of the Act of 1846 and the Act of 1849 in any way relating to or connected with the borrowing or re-borrowing of money, and the securing the same, and the receipts for the same, and the indemnities of mortgagees, and the estate and interest and indemnity and remedies of purchasers, and the contents of the mortgage, and the inspection of the Commissioners' books, shall extend and apply to this Act, and to all moneys hereby authorised to be borrowed, as if the same provisions were here repeated and re-enacted and made applicable thereto; and every mortgage granted under this Act, and appearing to be made by

seven Commissioners, shall be valid and effectual, notwithstanding any neglect or error of or in any advertisement, notice, or other proceeding to sanction the same, or any irregularity or omission in any requisition for or in the convening of any meeting, or any other neglect, error, irregularity, or omission in reference thereto; and it shall not be incumbent on any mortgagee to inquire as to the appointment or qualification as Commissioners of the persons parties as Commissioners to such mortgage, or whether such persons have made and subscribed the declaration in that behalf required by the Act of 1846.

A.D. 1880.

12. The mortgagees of the Commissioners may enforce the payment of the arrears of interest or principal, or of principal and interest, due on any mortgages of the said New Outfall tax by the appointment of a receiver; and in order to authorise the appointment of such receiver in respect of principal, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than three thousand pounds in the whole.

Mortgagees may appoint a receiver.

13. Nothing herein contained shall be held to prejudice the priority of any mortgages on the taxes payable under the recited Acts or any of them which may be subsisting at the time of the passing of this Act.

Prior mortgages under recited Acts not to be affected.

14. All money borrowed by the Commissioners shall be applied :

1st. In the payment of the costs, charges, and expenses preliminary to and of and incidental to the soliciting, obtaining, and passing of this Act, and the borrowing of money :

Application of money borrowed.

2ndly. In payment of the sums from time to time fixed by the precepts of the Outfall Board, not exceeding altogether the sum of sixty-five thousand pounds, for the contributions to be made by the Commissioners towards the costs of and incidental to the execution of the outfall improvement works, and for any other purpose for which capital is properly applicable and not otherwise.

15. The New Outfall tax, and all penalties by this Act charged or made payable, and all sums of money which may be raised (except borrowed money) under the provisions of this Act, shall be applied—

Application of moneys to be raised by taxes under this Act.

(1.) In payment of the costs and expenses of and incidental to the collection of the New Outfall tax by this Act authorised, and all other expenses of carrying this Act into execution :

(2.) In paying interest on money borrowed under the authority of this Act :

(3.) In payment of the amount of contribution from time to time fixed by the precepts of the Outfall Board towards the

A.D. 1880. expenses of and incidental to the maintenance and management of the outfall improvement works :

(4.) In providing a sinking fund for repayment of the money borrowed under the powers of this Act.

Sinking fund to be provided for liquidating debt.

16. In order to provide for the gradual and final extinction of the debt to be contracted under the powers of this Act on security of the New Outfall tax, the Commissioners shall yearly and every year, commencing from the tenth day of October one thousand eight hundred and eighty-two, until the extinction of the debt, appropriate for a sinking fund out of the New Outfall tax by this Act authorised all such sum and sums of money as shall not be required for the purposes first, secondly, and thirdly described in section fifteen of this Act, and such sum and sums may be invested, and the annual income of the sinking fund for the time being shall be accumulated by investment in the manner provided by the Act of 1846 in respect of the sinking fund thereby authorised to be made for discharge of debt, and with a like power to vary investments to that given by the last-mentioned Act.

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

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

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

the provisions of this section shall, mutatis mutandis, apply to instalments. A.D. 1880.

18. Subject to the provisions of this Act, the Commissioners may agree with the owners or trustees for the drainage of any other lands not now comprised within the Black Sluice Level, and whether now inclosed or not, for the drainage of such other lands and the discharge of the water therefrom by means of the drains and works of the Commissioners, upon payment of such sum or sums of money, either in gross or annually, or both, and subject to such stipulations, conditions, and regulations as shall be specified and mentioned in the agreement which shall be entered into in that behalf, and every such agreement shall be binding and conclusive on all parties to the same. Further lands may be admitted to drainage by agreement.

19. From and after the passing of this Act all notices for convening meetings and other proceedings requiring the signature of the clerk may, during the incapacity or in the event of the death of the clerk, and until a new clerk shall be appointed, be signed by any three of the Commissioners, or any three members of any committee of the Commissioners, anything in the recited Acts contained to the contrary notwithstanding. Notice of meetings of Commissioners.

20. If any damage shall be wilfully or negligently caused by any occupier of lands adjoining or abutting upon any of the banks, drains, or dykes under the jurisdiction of the Commissioners, except the banks of the River Glen and Bourn Eau from Gutheram Cote to Bourn, by the treading of horses, heavy cattle, or otherwise, such occupier shall be liable to the Commissioners for the cost of repairs of such injury or damage, and such repairs shall be executed by the Commissioners, and the costs thereof in default of payment shall be recovered from the occupier in the manner provided by the recited Acts for the recovery of taxes authorised to be levied under and for the purposes of those Acts. Occupiers liable for damage done to banks by cattle.

21. From and after the passing of this Act the interest of three pounds ten shillings per centum per annum upon the amount of loans paid off required by section 86 of the Act of 1846 and section 21 of the Act of 1849 to be appropriated to a sinking fund shall be reduced to three pounds per centum per annum, and the said sections shall be deemed to be altered accordingly. Alteration of sections of former Acts as to sinking fund.

22. From and after the passing of this Act the powers and provisions with respect to outring and division dykes or drains contained in the Act of 1846, and the powers and provisions with respect to works of interior drainage contained in the Act of 1849, shall extend to all lands within the Black Sluice Level, except the lands in Holland Fen, under the jurisdiction of the Second District Provisions as to division dykes, &c.

A.D. 1880. (Witham) Commissioners, and except also the lands in Bourn North Fen and Dyke Fen, under the jurisdiction of the Bourn North Fen and Dyke Fen trustees, and may be exercised and put into force at any time by order and under the authority of any three Commissioners, and any three Commissioners so acting shall report their proceedings to the then next meeting of the Commissioners.

Prohibition of use of nets, &c. in South Forty-foot and other drains.

23. From and after the passing of this Act no person shall fish by means of nets, rods, or otherwise, or use any steam-launch, house-boat, or pleasure-boat in or on the South Forty-foot River, or any other drain, stream, or waters in the Black Sluice Level without a license or other written permission of the Commissioners, and every person using a license or permission as aforesaid shall be bound by the conditions contained therein, and every person fishing or using any steam-launch, house-boat, or other pleasure-boat without a license or written permission, or who having a license or written permission shall do any act contrary to the conditions contained therein, shall for every such offence be liable to a penalty not exceeding ten pounds, and in the case of netting for fish shall forfeit all fish and nets and apparatus found in his possession, and such penalty shall be enforced and recoverable in the manner provided by Sections 107, 108, and 109 of the Act of 1846 for the recovery of penalties and forfeitures imposed by the recited Acts.

Byelaws for regulation of fishing boats, nets, seasons, &c.

24. The Commissioners may from time to time, but subject to the provisions of this Act, make byelaws for all or any of the following purposes ; namely,

For the protecting, preserving, and regulating of the fisheries in the rivers and drains in the Black Sluice Level under their jurisdiction and control, and the preservation of the fish therein ;

For the registering and regulating of steam-launches, house-boats, pleasure and other boats on those rivers and drains used for pleasure or occupation, or for fishing, or kept to be let on hire for pleasure or fishing, and for the governing of persons using or working such boats or vessels, and of persons keeping such boats or vessels for letting to hire for pleasure, fishing, or other purposes ;

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

For determining the times during which the taking of any particular or specified kinds of fish shall not be practised ;

For determining and regulating the duties of water bailiffs or other officers to be appointed for carrying such byelaws into execution ;

and such byelaws shall be made, repealed, altered, enforced, confirmed, and published in the manner prescribed by the Act of 1849. A.D. 1880. —

25. The annual statement of accounts and books of accounts of the Commissioners, signed by the chairman of the meeting of the Commissioners at which such accounts were passed, shall be received in evidence of the matters therein contained without proof of the signatures of the chairman thereto, or the contents thereof, or entries therein, in all actions or other proceedings by or against the Commissioners. Statements of accounts to be received in evidence.

26. Nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from any of the rights, privileges, jurisdictions, or authorities of the Commissioners of Sewers acting in and for the county of Lincoln. Saving rights of Commissioners of Sewers.

