CHAPTER xiii.

An Act to amend the Acts relating to the Burnt Fen First District, and to provide for the making and maintaining of Roads in the said District; and for other purposes. A.D. 1879.

[23d May 1879.]

WHEREAS in the year one thousand seven hundred and sixty an Act was passed (thirty-third year of the reign of King George the Second, chapter thirty-two,) making provision for the draining and preserving of certain fen lands and low grounds in the Isle of Ely and counties of Suffolk and Norfolk, which lands and grounds were for those purposes divided into two districts, called the first district and the second district, which Act, so far as it related to the said first district, was amended by the thirteenth of George the Third, chapter twenty, and thirty-seventh of George the Third, chapter eighty-nine:

And whereas by an Act (in this Act called "the Act of 1807") passed in the forty-seventh year of the reign of King George the Third, chapter eighty-three, intituled "An Act for repealing several "Acts of the thirty-third year of King George the Second, and the "thirteenth and thirty-seventh years of His present Majesty, for "draining certain fen lands in the Isle of Ely and counties of "Suffolk and Norfolk, near Mildenhall River, so far as relates to the "several lands in the first district therein described, and for making "better provision for draining and preserving the said lands," so much of the said Acts of the thirty-third year of the reign of King George the Second and of the thirteenth and thirty-seventh years of the reign of King George the Third as relates to the said first district (except as to certain tolls granted by the last of those Acts) were repealed, and other provisions were enacted for the more effectually draining and preserving certain fen lands and low grounds in the Isle of Ely and counties of Suffolk and Norfolk, comprising an area of about fourteen thousand acres (being the area in the said Acts called "the first district," and in this Act

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called "the district"), and to execute that Act Commissioners were appointed and were directed (section six) to hold meetings in the months of October and April in every year, and were empowered (section twelve) to make such works as they should think necessary for the better draining and preserving of the district, and (section twenty-five) at the April meeting in every year to assess upon such of the said fen lands and low grounds as were rated under the said in part repealed Acts, and were not exempted by the Act of 1807, (in this Act called "taxable lands,") a tax of one shilling and sixpence per acre, and also a "gradual acre tax" not exceeding one shilling and sixpence per acre, with which taxes the said lands and grounds were then already assessed under the said in part repealed Acts, or one of them, and also an additional "gradual acre tax" not exceeding three shillings per acre, to be assessed according to certain rates and valuations made by the Commissioners under the Act which imposed the said first-mentioned gradual acre tax, such taxes to become due on the Feast of Saint John the Baptist, and payable within the first seven days of October in every year by the respective owners and occupiers of the taxable lands, and to be raised and levied so long as should be necessary for the paying of debts incurred by the Commissioners under the provisions of the said in part repealed Acts, and also for carrying the purposes of the Act of 1807 into execution; and by the Act of 1807 (section forty-two) the said Commissioners were empowered to erect turnpikes and toll-houses across the banks of the district, and to demand and take certain specified tolls at the said turnpikes of travellers and of persons navigating vessels on the Mildenhall River, Brandon River, and River Ouse, before any horse, beast, or cattle should be permitted to pass through the same, but subject (section fifty) to certain exemptions; and the said Commissioners were empowered (section fifty-three) to borrow, on security of the said taxes and tolls, such sums as they should think necessary for the purposes of the said Act, and were also directed (section fifty-nine) to let the herbage of the banks and droveways (not being private property or the property of the Corporation of the Bedford Level), and the waste places of the district, and the lands of the said Commissioners, and to apply the rents thereof in the same manner as the taxes to be raised under the Act of 1807:

And whereas by section sixty-six of the Act of 1807 all persons were prohibited from making tunnels, staunches, and sluices in private drains belonging to any person or persons, and from using the same for the purpose of running any water into any drain or outring fence of the said Commissioners, and by section seventy-three every person who should erect or use any horse-mill or other

engine for discharging water from lands in the district through or upon the lands of any other person, or in any other way than directly into the said rivers or into Lakenheath Lode, was subjected to a penalty of fifty pounds, and to make compensation for damage sustained:

And whereas by an Act (in this Act called "the Act of 1823") passed in the fourth year of the reign of King George the Fourth, chapter one hundred and three, intituled "An Act to amend and "render more effectual an Act passed in the forty-seventh year of "the reign of His late Majesty King George the Third, for re-"pealing several Acts therein mentioned for draining certain fen "lands in the Isle of Ely and counties of Suffolk and Norfolk, near "Mildenhall River, so far as relates to the lands in the first "district therein described, and for making better provision for "draining and preserving the said lands," the district was (section five) named "The Burnt Fen First District," and the Commissioners thereof "The Commissioners for draining the First District of "Burnt Fen Lands," and (section six) the rights in respect of which persons were entitled to be Commissioners and to appoint deputies were extended, and (section seven) two general meetings of the said Commissioners were directed to be held every year at Ely in the Isle of Ely, one of them in the month of March and the other in the month of October, and the said Commissioners were also empowered to hold other meetings and to adjourn any meeting, and they were also empowered (section thirteen) to repair and maintain certain parts of the south bank of the said Brandon River and of the west bank of Lakenheath Lode, and (section sixteen) to take an additional toll for passage upon the banks of the district while they maintain the same; and by the said Act (section fourteen) provision was made with respect to the mode of assessing the said two gradual acre taxes and (section twenty-three) for protecting the banks from injury by reason of tunnels cut for the purpose of letting water through the same, and by section twenty-five a penalty was imposed on every person who should make, erect, or continue any dam, heading, staunch, or sluice in any ditch, drain, or tunnel in the district, or do any act whereby the free passage of water therethrough should be impeded:

And whereas it is expedient that provision should be made for appointing Commissioners in addition to those qualified under the recited Acts:

And whereas it is expedient that the gradual acre taxes be consolidated:

And whereas it is expedient that the exemptions from the tolls payable to the Commissioners should be extended:

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And whereas the Commissioners do not owe any money on mortgage, and it is expedient that their borrowing powers be consolidated and extended:

And whereas it is expedient that the Commissioners should have the power of applying, in levelling the droveways of the district, moneys arising from letting the herbage of droveways:

And whereas, in consequence of the unequal subsidence of the level of the said fen lands by the drainage thereof, it has become difficult and disadvantageous to keep the waters in the district at one uniform level, and it is therefore expedient that the use of private mills, and the dams and headings necessary for the same, should be legalised, subject to certain conditions and restrictions:

And whereas certain banks of the Commissioners (in the recited Acts and this Act called "the Cross Banks") exist for the purpose of protecting the district from the waters of lands lying outside of and adjoining the district, and it is expedient, in order to reduce the soakage of water from such lands through the Cross Banks, that the Commissioners and persons interested in such lands should be empowered to enter into arrangements for drawing off the waters of such lands by means of the works of the Commissioners, upon such terms as may be agreed upon between them:

And whereas by an Act (sixth and seventh Victoria, chapter sixty-six,) the name of the said second district was changed to "The Mildenhall Fen District," and it is expedient that the district should in future be called "Burnt Fen District":

And whereas it is expedient that the recited Acts be amended in divers other particulars:

And whereas there are in the district many roads and ways, not being public highways, nor repairable by any person or persons ratione tenuræ, and for the repairing, improving, and maintaining of which no provision is made by law, by reason whereof such roads and ways remain in a state of disrepair, to the serious inconvenience of the persons using the same, and to the great prejudice of the general interests of agriculture in the district:

And whereas it is expedient that facilities should be offered and provision made for the improving and maintaining of existing and the making of new roads and ways in the district by the persons interested therein:

And whereas it is expedient that provision be made for the sale of strips of such of the said roads as are now of greater width than would be requisite if the same were properly made, metalled, and repaired:

And whereas the objects aforesaid cannot be accomplished 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:

Short titles of this Act and of recited Acts.

1. This Act may be cited as the Burnt Fen District Act, 1879, and the recited Acts may respectively be recited separately as—

The Act of 1807 as the Burnt Fen District Act, 1807, and

The Act of 1823 as the Burnt Fen District Act, 1823,

and collectively as the Burnt Fen District Acts, 1807, 1823, and 1879.

District Acts to be read together.

2. The Act of 1807, as amended by the Act of 1823 and by this Act, and the Act of 1823, as amended by this Act, shall together with this Act be read and construed together as one Act.

Incorporation of part of general Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
10 & 11 Vict. c. 16.

3. The provisions of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, except with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry on lands by the promoters of the undertaking, and the following sections and provisions of the Commissioners Clauses Act, 1847; (that is to say,)

Section 37 (election of chairman at meetings);

Section 38 (manner of voting);

Section 44 (no resolution of Commissioners to be revoked at a subsequent meeting unless under certain circumstances);

Section 49 (power to appoint committees);

Section 50 (quorum of committees);

Section 52 (informalities in appointment of Commissioners not to invalidate proceedings);

The provisions with respect to the contracts to be entered into and the deeds to be executed by the Commissioners (except section 57);

Section 60 (Commissioners not to be personally liable for acts done in the capacity of a Commissioner);

Section 77 (transfers of mortgages);

Section 78 (register of transfers to be kept);

so far as the same respectively are applicable for the purposes of and are not varied by or inconsistent with the provisions of this Act, are hereby incorporated with and form part of this Act.

Change of name of district and Commissioners.

4. From and after the passing of this Act the name of the district and of the Commissioners shall be changed, and the district shall be called "Burnt Fen District," and the Commissioners "The Commissioners for draining Burnt Fen District," but such change of name shall not prejudicially affect any duties, rights, powers,

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authorities, privileges, remedies, or property of, nor any proceedings pending, nor any right or cause of suit, plaint, or action, nor any penalty which may have arisen before the passing of this Act by or against the Commissioners, nor any debt owing to or by the Commissioners, nor the proof of any past act or thing.

Interpretation of terms.

5. In this Act words and expressions to which meanings are assigned by or which have special meanings in enactments incorporated with this Act, have in this Act the same respective meanings, unless there be something in the subject or context repugnant to such meanings:

"The recited Acts" means the Act of 1807 and the Act of 1823;

"The District Acts" means the recited Acts and this Act;

"The district" means Burnt Fen District;

"The Commissioners" means the Commissioners for draining Burnt Fen District;

"Meeting" includes any adjournment of such meeting;

"Taxable lands" means lands within the district taxable by virtue of the recited Acts;

"Revenue" includes all moneys receivable by the Commissioners, other than borrowed moneys;

"Mill" means a mill used for the raising of water, by whatever motive-power the same be worked;

"The droveways" means banks, droveways, lands, and waste places the herbage and pasturage of which are let by the Commissioners by virtue of section fifty-nine of the Act of 1807;

"Cattle" includes horses, mares, geldings, mules, asses, oxen, cows, neat cattle, calves, sheep, swine, and lambs;

"Roads" includes any occupation roads and cart roads not being public highways, and also droveways;

"Road district" means any district formed under Part II. of this Act;

"Road authority" means the road authority constituted for a road district under Part II. of this Act.

In the Commissioners Clauses Act, for such of the purposes of this Act as relate to the Commissioners,

"The Commissioners" means the Commissioners for draining Burnt Fen District:

And for such of the purposes of this Act as relate to the making and maintaining of roads,

"The Commissioners" means the road authority for any district;

"The undertaking" means the roads to be made or maintained.

In this Act and in any enactment incorporated therewith the expression

"Court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand in respect of which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Limits of Act.

6. The limits of this Act shall be the district.

PART I.

Qualification of Commissioners.

7. With respect to the qualification of the Commissioners, the following provisions shall from and after the passing of this Act have effect; that is to say,

1. If two or more persons be joint owners in their own right of taxable lands, each of them shall be deemed to be the owner in severalty of so much taxable lands as the quantity of such lands if divided by the number of joint owners shall give to each of them:
2. Every corporation and body of commissioners, and the trustees and feoffees for charitable or other purposes, being seised or possessed of or entitled to one hundred and fifty acres of taxable lands, may from time to time appoint one person to act as a Commissioner; and for every three hundred acres of which such corporation, body, trustees, or feoffees shall be so seised, possessed, or entitled over and above the quantity necessary for qualifying one Commissioner, may also from time to time appoint a separate agent to be a Commissioner, who shall upon all occasions be competent to act, notwithstanding any other Commissioner or Commissioners appointed by the same corporation, body, trustees, or feoffees is, are, or be present; and any person so to be appointed may or may not be a member of the body, corporation, or trustees or feoffees who appoint him.

Annual meeting.

8. The meeting of the Commissioners held annually in the month of March, and any adjournment thereof, shall be deemed to be their annual meeting.

Taxes.

9. From and after the passing of this Act the said gradual acre tax not exceeding one shilling and sixpence per acre, and the said gradual acre tax not exceeding three shillings per acre, authorised by the Act of 1807 to be assessed by the Commissioners, shall cease to be assessed as separate taxes, and in lieu thereof the Commissioners in every year, at any one of their general meetings, and in addition to the equal tax of one shilling and sixpence per

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acre by the same Act authorised to be assessed, may assess upon the taxable lands one gradual acre tax not exceeding four shillings and sixpence per acre, and the following provisions shall have effect with respect to any taxes assessed by virtue of the District Acts; (that is to say,)

1. The taxes assessed by the Commissioners in any year shall, as between any outgoing and incoming owner or occupier, be deemed to be assessed in respect of the period of one year, commencing on the sixth day of April of the year in which such assessment shall be made:
2. Any assessment of tax under the District Acts may be in the form given in Schedule A. to this Act, or as near thereto as circumstances will admit:
3. The warrant of distress for the recovery of any taxes or sums of money made payable by the District Acts may be in the form or to the effect mentioned in Schedule B. to this Act; and all such taxes or sums of money for the time being remaining payable by any one occupier of taxable lands may be lawfully included and levied under one warrant, and by one levy and entry to be made on any part or parts of such taxable lands for and in respect of the whole of the lands of such occupier; and no demand or summons shall be necessary previous to executing such warrant, but ten at least days previously to executing the same the Commissioners shall, under the hand of their clerk, cause notice of such distress to be left at or transmitted by post to the usual or last known place of abode of such occupier, at his cost:
4. So long as any moneys shall be owing on the security of the said taxes, the Commissioners shall lay a tax of not less than three fourths of the maximum amount of such taxes on which such moneys are secured:
5. Either of the said taxes may be made prospectively, in order to raise money to pay expenses to be incurred after the laying of such tax, or retrospectively, in order to raise money to pay expenses incurred before the laying of such tax, whether before or after the passing of this Act, or partly prospectively and partly retrospectively, and may include the estimated costs of collecting and recovering the tax:
6. If any person fail to pay any amount due from him in respect of any tax, the Commissioners may (but without prejudice and in addition to any other remedy they may have in that behalf) recover the same in any court of competent jurisdiction:

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7. The several provisions now in force of the recited Acts relating to the making, assessing, rating, taxing, charging, levying, paying, collecting, and recovering of taxes and arrears of taxes, and the penalties for nonpayment of taxes, shall (subject to the provisions of this Act) extend and apply, mutatis mutandis, to and in relation to the like matter in respect of the gradual acre tax by this Act authorised to be assessed, and the arrears thereof.

Further exemption from tolls.

10. No toll shall be demanded or taken by virtue of the recited Acts from any owner or occupier of taxable lands for or in respect of any horse, mare, gelding, mule, or ass used only for the purpose of conveying into or from the district, or from any one part of the district to any other part thereof, such owner or occupier, or his servant or servants (such servant or servants being employed in farming or viewing the condition of his lands), or for or in respect of any cattle going to or returning from pasture or use for agricultural purposes in or upon any lands of such owner in his actual occupation or of such occupier, whether such lands be within or without the district: Provided that no cattle going to or coming from any market shall be deemed to be going to or returning from pasture.

Borrowing moneys.

11. In lieu of the moneys which the Commissioners may from time to time borrow under the provisions of the recited Acts, they may from time to time borrow and re-borrow, on security of the taxes or either of the taxes payable under the District Acts, any sum or sums not exceeding fifteen thousand pounds, and the following provisions shall have effect with respect thereto; (that is to say,)

1. The said sum or sums shall be borrowed and re-borrowed by means of terminable annuities for any period not exceeding thirty years, or by way of mortgage, or partly by one mode and partly by the other:
2. The Commissioners shall pay off any moneys borrowed by them by way of mortgage by means of a sinking fund to be formed by the annual appropriation of such a sum as, when invested in such securities as are for the time being authorised by law for investment by trustees, will with the accumulation thereof suffice to pay off the borrowed moneys within thirty years from the date of borrowing the same, and such sinking fund shall from time to time be applied for that purpose:
3. The Commissioners may at any time apply the whole or any part of any sinking fund in or towards the discharge of the moneys for which it was established: Provided they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged a sum equivalent to the

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interest which would have been produced by the sinking fund or part of the sinking fund so applied: Provided also, that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of such mortgages then outstanding, the Commissioners may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to such sinking fund of the yearly sums required to be so paid thereto:

4. 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 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 or applied 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 purposes to which any portion of the moneys invested for the sinking fund 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, such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board, by such return or otherwise, that the Commissioners have failed to set apart the sum required for the sinking fund, or have applied any portion of the moneys set apart for that fund to any purposes other than those authorised, the Local Government Board may, if they think fit, and after hearing the Commissioners (if they so desire), by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested or applied 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 Her Majesty's High Court of Justice:

5. The Commissioners shall not be bound to see to the execution of any trust, whether express or implied or constructive, to which any loan or security for loan given by them may be subject, but the receipt of the person in whose name any loan or security for loan stands in the register book of the Commissioners shall from time to time be a sufficient discharge to the Commissioners in respect thereof, notwith-

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standing any trusts to which such loan or security may be subject, and whether or not the Commissioners have had express or implied notice of any such trust, or of any charge, lien, or incumbrance upon or transfer of such loan or security, or any part thereof or interest thereon, not entered on their register; and the Commissioners shall not be bound to see to the application of the money paid on any such receipt, or be answerable or accountable for any loss, misapplication, or non-application of any of such moneys:

6. A person lending money to the Commissioners shall not be bound or entitled to inquire as to the observance by them of any provision of the District Acts, or to see to the application, or be answerable for any loss, misapplication, or non-application of any of such money:

7. If any money be made payable to a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Commissioners:

8. If within one month after any instalment of an annuity, or any part thereof, has become payable, and after demand thereof in writing, it be not paid, the annuitant, without prejudice to his right to sue for the amount in arrear in any court of competent jurisdiction, may, if his debt alone amount to the sum of twenty pounds, or, if his debt does not amount to that sum, he may, in conjunction with other annuitants whose debts being so in arrear, after demand as aforesaid, shall, together with his debt, amount to the said sum, require the appointment of a receiver by an application to be made as in this Act provided:

9. The mortgagees may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; and in order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall be not less than one tenth of the amount which the Commissioners shall have borrowed on mortgage:

10. Every application for a receiver shall be made to two justices, and on such application such justices, by order in writing, after hearing the parties, may appoint some person to receive the whole or a competent part of the taxes liable to the payment of such annuities or mortgage debts, as the case may be, until the annuities or mortgage debts so in arrear and in respect whereof the receiver is appointed, and all costs, including the costs of receiving such rates, be fully paid; and

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upon such appointment being made all such rates shall be paid to and received by the person so appointed, who is hereby empowered to give good and sufficient discharges for the same; and the money so to be received shall be so much money received by or to the use of the several annuitants or mortgagees interested in the same, and shall be distributed by the receiver accordingly; and after all moneys so in arrear and costs shall have been paid the power of the receiver shall cease:

11. The money borrowed under this Act shall be applied only for the purposes for which it was borrowed, being objects to which capital money is properly applicable, and for no other purpose.

Droveways may be levelled by the Commissioners.

12. The Commissioners, if they shall think proper, but not otherwise, may from time to time, out of revenue, level and re-form the droveways in such way and manner as they may think fit; but it shall not be lawful for the Commissioners to lay out or expend in any one year for the purposes last aforesaid any greater sum than they shall receive during such year for the herbage and pasturage of the droveways.

Mills for the pumping of water.

13. With respect to private mills the following provisions shall have effect; (that is to say,)

1. Any owner of taxable lands may from time to time erect a mill upon such lands at a distance of not less than fifty yards from and for the purpose of pumping and delivering drainage water into a drain of the Commissioners:
2. Any owner of lands drained by such mills as in the last subsection mentioned, or the occupier of any such lands with the consent of his landlord, may from time to time make in such lands, or in the division or other ditches of such lands, such sluices, staunches, dams, or headings as may be requisite to confine to such lands the exclusive use and benefit of the said mills, or to prevent or restrain the flow of water into the lower parts of such lands from any other parts thereof:
3. Any owner of taxable lands, with the previous consent of the Commissioners under the hand of their clerk, and upon such terms and conditions as they may impose, may from time to time erect and maintain any mill for the purpose of pumping water into any ditch or drain, not being a drain of the Commissioners:
4. Any owner of taxable lands, or the occupier of any such lands with the consent of his landlord, may from time to time

make in such lands, or in the ditches dividing such lands, any dams or headings for the purpose of keeping up a sufficient head of water for the benefit of lands lying higher in level than other lands near or adjacent thereto; but no such dam or heading shall be made within the distance of thirty yards from any drain of the Commissioners:

5. Nothing in this section shall authorise the doing of or the consenting to any act or thing whereby any lands or persons may be injuriously affected otherwise than by the effect of pumping or delivering drainage water into a drain of the Commissioners:

6. If any difference arise as to whether or not any lands or persons be so injuriously affected, such question shall be determined by a surveyor to be agreed on between the parties in difference, or in default of such agreement, to be appointed upon the application of either of such parties, by two justices.

Power to agree as to draining off water soaking through the Cross Banks.

14. For reducing the soakage of water through the Cross Banks, it shall be lawful for the Commissioners, if they shall so think fit, at any time to contract and agree with any owners or occupiers of any lands adjoining or near such Cross Banks, or with any body of commissioners having authority for drainage purposes over such lands, for draining off or receiving the waters from any such lands into and disposing of the same through the drainage works of the district, for such times, upon such terms and conditions, and for such yearly or other sums of money respectively as the Commissioners shall think adequate, which sums of money so to be contracted and agreed for shall be from time to time applied by the Commissioners for the purposes of the District Acts, and such body of commissioners may apply any funds over which they have control for the purposes of carrying into effect any such agreement.

Letting in of water into the district.

15. For the purpose of the letting in of water into the district, the Commissioners may, subject to such conditions and regulations as they think fit, continue any tunnel already made from the River Ouse, Mildenhall River, or Brandon River, or from Lakenheath Lode, through or under any of the banks of the district into any drain of the Commissioners, or into the ditches belonging to any of the taxable lands, with the doors, sluices, or staunches proper for working such tunnel, and may construct and lay down any other tunnels from the said rivers or lode, or any or either of them, through or under the said banks into the said drains or ditches, with such doors, sluices, or staunches as aforesaid.

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PART II.

Application of Part II.

16. The provisions of this part of this Act (herein-after referred to as Part II.) shall extend and apply only to and in relation to the making and maintaining of roads.

Meaning of "owner" in Part II.

17. The word "owner" in Part II. means the person, corporation, or body for the time being entitled to receive the rackrent of the land in respect of which the word is used, either on his or their own account or as trustee for any other person or persons.

Preliminary meeting for adoption of Part II.

18. Any two or more persons having a right of way either as owners or occupiers (or partly in one right or partly in the other), or being otherwise interested in any road or roads, may, by not less than ten days previous notice to be given as herein-after prescribed, call a preliminary meeting of the owners interested in such road or roads to consider the expediency of taking proceedings for the adoption of Part II.

Notice of preliminary meeting, how to be given.

19. The notice shall specify the time and place for holding the meeting, and the road or roads in respect of which it is to be held, and shall be sent to every owner at his usual place of residence, or to his agent, and shall also be published by handbill, affixed in some conspicuous manner upon the line of such road or roads, and on or near to the principal door of the parish church of the parish or parishes in which any part of such road or roads is or are situate.

Voting in person or by deputy.

20. Any such owner may attend and vote at the preliminary meeting, either personally or by his deputy appointed by writing under his hand, and any such appointment may be in the form in Schedule C. to this Act, or to the like effect.

Chairman to be chosen.

21. The meeting on its assembling shall choose one of its number to be chairman, and he, with the consent of the majority of owners present thereat personally or by deputy, may adjourn the meeting from time to time.

Deposit of plan, &c.

22. If the preliminary meeting, by a majority of the votes of the owners so present as aforesaid, determine to proceed further towards the adoption of Part II., they shall cause to be prepared a plan showing the road or roads in question, and the lands the owners of which it is proposed to make to contribute to the making and repairs thereof, and a schedule of such lands, with the names of such owners and the quantity of such lands, as nearly as can be ascertained according to the parish or tithe map and survey, and shall deposit a copy of such plan and schedule with the parish clerk of every parish in which any portion of such lands is situate, or if

there be no parish clerk, then with the vestry clerk or a churchwarden of such parish.

Second meeting.

23. The chairman of the preliminary meeting shall give notice in manner aforesaid of the deposit of the said plan and schedule, and in such notice shall call a second meeting of the owners of all the lands mentioned in the said schedule, to be held at a convenient time and place to be named in the notice, to determine whether Part II. shall be adopted or not.

Appointment, &c. of chairman.

24. At the second meeting a chairman shall be appointed by the majority of the owners so present as aforesaid and voting, and such chairman shall determine, for the further purposes of the meeting, the acreage of the lands mentioned in the said schedule.

Resolution for adoption of Part II., name of district, &c.

25. So soon as the said acreage has been determined, the chairman shall propose a resolution for the adoption of Part II. Any amendment or amendments to omit any portion or portions of the said lands may be proposed, and the meeting shall decide whether Part II. shall be adopted or not, and whether all or what part or parts of the lands set forth in the said schedule shall be included within its operation, and the lands so included shall form a road district, and the meeting shall determine by what name the road district shall be known, and the chairman shall mark upon a copy of the said plan the boundary of such road district, and shall sign the same, and such plan shall be deposited with the clerk to the Commissioners for safe custody.

Majority required.

26. No resolution for the adoption of Part II. of this Act shall be passed unless persons representing a majority of the whole acreage of the area to be included within the operation of such resolution be present at the said second meeting and vote for the resolution, and subject thereto, all questions at the said second meeting shall be determined by a majority in acreage of the owners so present as aforesaid: Provided that no such owner shall vote in respect of any land not included in the operation or forming the subject-matter of the proposition to be determined by such votes.

Provisions if Act adopted.

27. If the Act be adopted, the following provisions shall have effect:

1. The costs, charges, and expenses of and in relation to the proceedings for the adoption of Part II. shall be deemed expenses incurred in the execution of Part II.:
2. At the second meeting, or at any adjournment thereof, the owners so present and voting shall appoint a waywarden, who shall hold office until the first annual meeting of the

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road authority, and shall, subject to the provisions of this Act, have, with respect to the roads and such road district, the same powers and duties as any surveyor of highways:

3. The said chairman shall forthwith publish the resolution by which Part II. was adopted in a newspaper published and circulating in the county or counties in which the road district is situate, and shall also cause the same to be affixed on or near to the principal door of the parish church of every parish within which the road district lies; and thereupon the owners of lands lying within such road district shall (subject to the provisions of Part II.) be liable to the maintenance of the roads therein in the same manner as the inhabitants of any parish are liable to the maintenance of the public highways thereof, and the owners within such road district shall be the road authority thereof:

4. The waywarden shall forthwith prepare a report setting forth all the roads in the road district, stating their width and condition and the manner in which they should be repaired, and whether the same or any or either of them, or any part or parts thereof respectively, can be narrowed, straightened, or altered, and such report shall be submitted to some adjournment of the second meeting, or to the next annual or to a special meeting of the road authority, who shall give such directions with respect thereto as they may think fit:

5. The road authority shall hold an annual meeting on such day within fourteen days next after the sixth day of April in every year as shall be fixed by the waywarden, and notice thereof shall be given in the manner herein-after prescribed for the convening of a special meeting; and all business other than that to be transacted at a special meeting shall be transacted at the annual meeting, and the waywarden for the ensuing year shall be then appointed:

6. A special meeting of the road authority may be called from time to time by the waywarden, or by any two members of the road authority, by circular addressed to every owner within the road district, or his agent or deputy, and sent by post seven clear days before the holding of such meeting.

Powers of road authority.

28. The road authority may from time to time, within the road district for which they act, do all or any of the following acts or things:

1. They may make and maintain new roads:
2. They may form and make, repair, and keep up roads, and may metal, gravel, and fence off the same, and make and maintain footpaths upon or along the side of any roads:

3. They may dig, clamp, and burn any clay or other materials found or being in, under, by the side of, or upon any road, and suitable to the forming or making of permanent roads:
4. They may close any road not in their opinion required for the purpose of any lands within the road district:
5. The road authority, on the one hand, and the road authority of any other road district, on the other hand, may enter into and carry into effect agreements for the making and maintaining of new roads, and the forming, repairing, altering, narrowing, straightening, and maintaining any existing road, upon and for such payments, terms, and conditions as they may think fit:
6. Any road authority, on the one hand, and the vestry of any parish within which any road or part of a road within the district of such road authority shall be situate, on the other hand, may enter into and carry into effect agreements for and with respect to the acceptance by such vestry of such road or any part or parts thereof situate within such parish as a public highway, upon such terms and conditions as they think fit:
7. They may by agreement purchase lands or materials for the making of new roads, the shortening or straightening of any road, or the connecting of any road with any other road within or without the district:
8. They may (subject to any existing rights of pasturage, and with the consent of the Commissioners for draining Burnt Fen District) authorise the owners whose lands abut on any road which may be closed under the powers of this Act, or on any plot or plots of land at the side of any road or roads, which plot or plots may not be required for the purposes thereof, to inclose and annex to their lands so abutting such plot or plots, in consideration of such payments and upon such terms and conditions as the road authority may think fit:
9. They may let (subject to any existing rights of pasturage) any herbage on or by the side of any road repaired wholly or in part by them.

Vestries may pay expenses from rates.

29. Any such vestry entering into any agreement with the road authority under the powers in that behalf in Part II. may pay or cause to be paid out of their highway rates such sums of money, costs, and expenses as may be necessary for carrying into effect any such agreement.

Road district fund and rate.

30. All money payable to the road authority shall be carried to the credit of an account called "The Road District Fund," out

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of which all the expenses of and in relation to the road district shall be paid; and in order to defray any such expenses which that fund is insufficient to meet, a road district rate shall be made and levied upon the lands lying within the road district according to their acreage, in conformity with the following provisions; (that is to say,)

1. The road authority, at the annual meeting, shall yearly determine the amount of rate (if any) to be made for the ensuing year, and whether any, and if any, what lands shall be wholly or partially exempt therefrom, and the waywarden shall make and levy such rate accordingly, and every such rate shall be open to inspection by any owner of land within the road district at all reasonable hours, without fee:
2. Every road district rate shall be payable by and may be recovered from the occupier of the land in respect of which it is owing, and such occupier so paying may deduct and retain the amount he may pay under this enactment from the rent from time to time due or becoming due to the owner of such land, who shall allow the same as though it had been actually paid to him as part of the said rent: Provided that (unless such occupier refuse to disclose the amount of rent so due from him) he shall not be required to pay any greater sum than the amount of rent for the time being due from him or which shall become payable after demand of such rate from and after notice not to pay to his landlord any rent without first deducting the amount of the said rate; provided also, that nothing herein contained shall affect any contract between a landlord and tenant:
3. Subject as aforesaid, the provisions for the time being in force for the recovery of highway rates shall extend and apply to road district rates.

Power to road authority to borrow.

31. The road authority may from time to time borrow, on the security of the road district rates, any sum or sums not exceeding in the whole the sum of eight hundred pounds for every mile of new road which the road authority shall make and metal, and for every mile of road they shall convert into a metalled road within such road district; and the provisions for the time being in force with respect to the borrowing of money by the Commissioners and the repayment of such money shall extend and apply, mutatis mutandis, to the like matters in respect of the moneys borrowed by the road authority.

Accounts.

32. The road authority shall cause accounts to be kept of all receipts and disbursements under the powers of Part II., and such

accounts shall be made up annually to Lady-day and be presented to and passed at the annual meeting of the road authority held in every year, and a copy thereof shall be deposited with the clerk to the Commissioners, and shall be open to the inspection of every owner of land within the road district at all reasonable hours, without fee.

Voting at meetings of road authority.

33. Any owner may attend and vote at any meeting of the road authority, either personally or by his deputy appointed by writing under his hand, and any such appointment may be in the form in Schedule C. to this Act or to the like effect.

Remedy for non-repair of road.

34. If any road in the road district be out of repair, any owner of land therein may summon the waywarden thereof before the justices, who may deal with him as they may deal with any surveyor of highways for the non-repair of any public highway under his charge, or such owner may prefer an indictment against the road authority in the like circumstances in which any person may prefer an indictment against the inhabitants of a parish in which any public highway is out of repair, and under and according to the like provisions as are for the time being in force in that behalf.

Road district in more than one petty sessional division, &c.

35. If any road district be in two or more petty sessional divisions or two or more counties or county court districts, the road district shall, for the purpose of the recovery of any road district rates and any summons or indictment for non-repair, be deemed to be in the jurisdiction of any or either of such divisions, counties, or county court districts.

PART III.

Preserving rights of the Corporation of Bedford Level.

36. Nothing in this Act contained shall extend or be construed to extend to invalidate, lessen, diminish, alter, or take away any of the rights, powers, or 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 said governor, bailiffs, and conservators, 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 all rights, powers, and authorities whatsoever which, by virtue of the said Act of the fifteenth year of King Charles the Second, or of any other Act or statute whatsoever, now are vested in the said governor, bailiffs, and commonalty, or in the said governor, bailiffs, and conservators, or any 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.

15 Car. 2. c. 17.

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Expenses of Act.

37. All the costs, charges, and expenses of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Commissioners out of the first moneys which come to their hands.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

Form of Assessment and of Assessment Book.

We, the undersigned, being seven of the Commissioners for draining Burnt Fen District, acting under and in pursuance or by virtue of the Burnt Fen District Acts, 1807, 1823, and 1879, present at a general meeting held by us (by adjournment), pursuant to the said Acts, on the day of in the year of our Lord one thousand eight hundred and , at the Inn in Ely, in the Isle of Ely in the county of Cambridge, do hereby assess, rate, tax, and charge the fen lands and low grounds within the boundaries and limits of the said district, and mentioned and described in the annexed Assessment Book, and bounded and described as in the said Acts or one of them specified, and the respective owners and occupiers of such lands whose names are mentioned in each page of the said book, with an equal tax of one shilling and sixpence for each and every acre of the said lands set down in each page of the said book against the names of such owners and occupiers, and also with a gradual acre tax not exceeding shillings for each and every acre of the said lands so set down, and so in proportion for any quantity less than an acre, such gradual tax being calculated in each case according to the rates and valuations made of the said lands and grounds by the surveyors authorised and appointed under an Act passed in the thirty-seventh year of the reign of King George the Third to survey the said lands and grounds, and the respective amounts of which several taxes so assessed and which are payable by the said owners and occupiers respectively are set down in each page of the said book against the names of such owners and occupiers in the columns headed respectively "Equal Tax" and "Gradual Tax"; and we, the said Commissioners, order and direct that the several taxes hereby imposed shall be paid to the clerks to the Commissioners at their office in , within the first seven days of October next, between the hours of ten in the forenoon and six in the evening.

Dated this day of 18 .

FORM OF ASSESSMENT BOOK.

Owner.	Occupier.	Situation.	Nature of Land.	Total Quantity of taxable Lands.	Total Quantity of taxable Lands sub-divided for Purposes of Gradual Tax.	Rates per Acre on sub-divided Lands.	Amounts of Gradual Acre Tax.	Amount of Equal Tax at 1*s.* 6*d.* per Acre.	Total of all Taxes.
							£ *s.* *d.*		
							£		

SCHEDULE (B.)

FORM OF WARRANT TO DISTRAIN.

Whereas the Commissioners for draining Burnt Fen District, in the exercise of the powers to them given or in them vested in that behalf by the Burnt Fen District Acts, 1807, 1823, and 1879, duly made one assessment of drainage taxes for each of the several years mentioned in the fourth column of the schedule endorsed hereon, and did by each such assessment assess, rate, tax, and charge the fen lands and low grounds and soakage land in such assessment mentioned or referred to, and the then respective owners and occupiers of such lands for the time being, including the lands referred to in the second and third columns of the said schedule, with the respective taxes in such assessment mentioned, and did by each such assessment order and direct that the taxes thereby imposed should be paid to the collectors therein appointed to receive the same at the time and place therein mentioned:

And whereas by virtue and under each of the said assessments certain land in the parish of in the county of , referred to in the second and third columns of the said schedule, being at the time of the date of the said assessments respectively in the possession or occupation of , was duly assessed to the said tax in the sum of money [*or* several sums of money] mentioned in the fifth column of the said schedule and therein respectively set opposite to the year of such assessment, and the said , as the occupier of the said lands for the time being, was duly assessed and became liable to pay the said sum [*or* respective sums] to the collectors so appointed to receive the same at the time and place in the said assessment duly mentioned and set forth:

And whereas the said neglected and failed to pay to the said collector the said several sums of money so duly assessed on and payable in

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respect of the said land [*or* respective lands] referred to in the said second and third columns of the said schedule as aforesaid, either before or at the several times and places duly appointed for the collection of the same sums respectively, and thereby forfeited and became liable to pay as a penalty the several sums of money mentioned in the sixth column of the said schedule, and therein set opposite to such first-mentioned sums of money respectively, being respectively sums of three shillings and fourpence for and in addition to every twenty shillings of such first-mentioned sums respectively, or so in proportion for and in addition to any greater or less sum than twenty shillings so due for tax as aforesaid:

Now we, the undersigned, being seven of the said Commissioners for draining Burnt Fen District, acting under and in pursuance and by virtue of the Burnt Fen District Acts, 1807, 1823, and 1879, do hereby authorise and require you and each of you to enter into and upon the said land [*or* respective lands] so situate in the said parish of in the said county of , and mentioned or referred to in the said schedule as aforesaid, and which have been so assessed to the said drainage tax as aforesaid, and in respect of which such neglect and default have taken place as aforesaid, and upon all or any of the houses, buildings, and tenements thereon [*or* thereon respectively] standing, and to levy upon the said land [*or* respective lands] the sums of money mentioned in the fifth column of the said schedule and therein set opposite to the said land [*or* respective lands], being the amounts of the tax so unpaid and in arrear for or in respect of such land [*or* lands respectively], together with the several sums of money mentioned in the sixth column of the said schedule and therein set opposite to the said first-mentioned sums respectively, being the respective penalties imposed as aforesaid, by distress of any goods or chattels which shall be found on the said land [*or* lands respectively]; and in case a sufficient distress cannot be found on the said land [*or* lands respectively], then to enter into and upon and to levy the said sums of money mentioned in the said fifth column of the said schedule as being the respective amounts of the said tax so unpaid and in arrear, and the said sums of money mentioned in the said sixth column of the said schedule, being the respective amounts of the penalties imposed as aforesaid, by distress of any goods and chattels of the said , wheresoever the same shall be found; and the said goods and chattels respectively which you shall have so seised and taken by such distress as aforesaid, to impound on the premises on which the same shall have been taken, or to take, lead, and drive, carry away, and impound elsewhere, and to detain and keep the same for the space of five days at the costs and charges of the said , giving to the said , or leaving at the last or usual place of abode of the said , notice in writing of the cause of such distress; and in case of the nonpayment of the said several sums of money and the charges attending such distress and removal and of the not replevying of such goods and chattels respectively distrained within five days next after such distress made and notice given as aforesaid, then the Commissioners for draining Burnt Fen District further authorise and require you and each of you to cause the said respective goods and chattels so distrained to be appraised and sold according to the statutes in that behalf made and provided, for and towards satisfaction of the said several and respective sums of money, and the respective charges of taking, keeping, removing, appraising, and selling

the said goods and chattels respectively, and to deal with the overplus (if any) as directed by the statutes aforesaid; and for so doing this shall be your sufficient warrant and authority. A.D. 1879.

Given under the hands and seals of the undersigned Commissioners for draining Burnt Fen District this day of A.D. 18 .

To Mr. and each of them.

THE SCHEDULE WITHIN REFERRED TO.

1. Occupier at the Time of the Date of Assessment.	2. Nature of Lands.	3. Acreage of Lands.	4. Year for which the Assessment was made.	5. Arrear of Taxes.	6. Penalty on the said Taxes.	7. Amount of Arrear and Penalty.
		A. R. P.		£ s. d.	£ s. d.	£ s. d.

SCHEDULE (C.)

Form of Proxy.

Burnt Fen District Act, 1879.

I, *A.B.*, of , being the owner of lands in the Burnt Fen District, do hereby appoint *C.D.*, of , to attend and vote for me in my absence at any meeting to be held under the provisions of Part II. of the above-named Act, and this appointment shall hold good until revoked in writing under my hand.

Dated this day of .

N.M.

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