CHAPTER cxxxiii.

An Act to provide for the commutation of the liability of landowners in the levels of the hundreds of Caldicot and Wentlooge in the county of Monmouth to maintain sea walls and other works and to provide for the making and maintaining of roads in the said levels and for other purposes. [14th July 1884.] A. D. 1884.

WHEREAS the levels of the hundreds of Caldicot and Wentlooge in the county of Monmouth (herein-after referred to as "the level") constitute a district under the jurisdiction of Commissioners of Sewers:

And whereas various sea walls and other defences and works in the level are repairable by the owners of lands therein by reason of frontage to the sea ownership prescription custom tenure covenant or otherwise but by reason of neglect or want of unity of action and other causes the said repairs are insufficiently or improperly executed whereby the productive power of the soil is reduced and the security of the level in some cases endangered and it is expedient that the Commissioners be authorised to require the owners liable to execute such repairs to commute such their liability to the intent that the Commissioners themselves should be enabled to provide for the execution of and to execute the necessary repairs and to make such new and additional works as they may from time to time deem expedient for the better protection and for the improvement of the drainage of the level:

And whereas the owners of the lands specified in the First Schedule to this Act and situate in the level who are or were liable as aforesaid in respect thereof have abandoned the said lands or have forfeited or surrendered the same to the Commissioners rather than discharge the said liability attaching thereto and the Commissioners have entered into possession thereof and it is expedient that the Commissioners be authorised to sell the same discharged of all such liability and to hold the same until so sold:

A.D. 1884.

And whereas it is expedient that the Commissioners be empowered to borrow money for the purposes of this Act:

And whereas there are in the level 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 level:

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

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 (that is to say):—

Part I.

Preliminary.

Short title.

1. This Act may be cited as the Caldicot and Wentlooge Level Act 1884.

Act divided into parts.

2. This Act is divided into parts as follows:

Part I. Preliminary;
Part II. Commutation;
Part III. Provisions in connexion with roads;
Part IV. Miscellaneous.

Incorporation of general Acts.

3. The Lands Clauses Consolidation Acts 1845 1860 and 1869 (except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase of lands otherwise than by agreement and with respect to the entry on lands by the promoters); and

Section 49 (power to Commissioners to appoint committees);
Section 50 (quorum of committees); and
The provisions with respect to the contracts to be entered into and the deeds to be executed by the Commissioners and with respect to the liabilities of Commissioners and to legal proceedings by and against the Commissioners and with respect to the mortgages executed by the Commissioners (except section 84)

of the Commissioners Clauses Act 1847:

so far as they are applicable for the purposes of and not varied by nor inconsistent with this Act are incorporated with and form part of this Act.

Interpretation.

4. In this Act unless the context otherwise requires;

"The level" means the levels of the hundreds of Caldicot and Wentlooge including the Greenmoor Roggiett and Caldicot Enclosures;

"The Commissioners" means the Commissioners for the said levels;

"Owner" means and includes all persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands;

"Rentcharge" means any rentcharge for which any liability is commuted under the provisions of this Act and includes every portion of such rentcharge;

"Works" includes all rivers watercourses drains sewers banks bridges sea walls walls sluices gates gouts or other outfalls for water and all other works which the Commissioners have any power to survey inspect re-form repair remove or amend and all works which the owners of any lands in the level are liable to construct maintain or repair by reason of frontage ownership prescription custom tenure covenant or otherwise in or for the purposes of the level;

"Meeting" includes any adjournment of such meeting;

"Roads" means any occupation roads fen droves and cart roads not being public highways nor repairable by any person ratione tenuræ;

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

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

Terms to which meanings are assigned in enactments incorporated with this Act or which have therein special meanings have in this Act the same respective meanings unless there be something in the subject or context repugnant to such construction;

In the Commissioners Clauses Act 1847

For such of the purposes of this Act as relate to the Commissioners—

"The Commissioners" means the Commissioners for the level; and

"The undertaking" means works executed by the Commissioners;

A.D. 1884.

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 road district; and

"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.

5. The limits of this Act except when otherwise expressed or implied shall be the level.

Part II.

Commutation.

Commissioners may require owner of lands to commute liability to maintain walls &c.

6. The Commissioners may by notice in writing from time to time require every owner of lands within the level to commute the liabilities attaching to such lands to construct repair maintain or do any works within their jurisdiction.

Mode of commutation.

7. (1.) Any commutation so made shall be in consideration of the payment of an annual rentcharge issuing out of and charged upon the lands in respect of which the liability attaches.

(2.) The amount of every such annual rentcharge as stated in the notice to commute shall be such sum as the Commissioners shall by the advice of a competent valuer determine to represent the annual liability of such owner in respect of such lands.

Contents of notice.

8. Every notice to commute may be sent by post addressed in the case of an individual to him at his usual or last known place of abode or if a body corporate to their secretary or clerk at their principal office and shall appoint a time and place for such owner to attend before the Commissioners either in person or by his agent for the purpose of arranging the terms of commutation;

If such owner attends in pursuance of such notice he and the Commissioners may agree on the terms of the commutation;

If such owner do not so attend pursuant to such notice or if he shall so attend and he and the Commissioners cannot agree on the terms of the commutation then and in either of such cases the Commissioners may determine the amount at which his liability shall be commuted.

Determination of Commissioners final unless objected to.

9. Notice of the determination of the Commissioners shall be sent forthwith by post to such owner addressed as aforesaid and unless he shall within one month give notice in writing to the Commissioners that he objects to such determination and stating the grounds of his objection such determination shall be final and binding on such owner but if he so objects the matter shall be determined by an arbitrator to be appointed by the Land Commissioners for England and his determination shall be final and conclusive. Section 130 and sections 133 to 137 both inclusive of the Railways Clauses Consolidation Act 1845 shall extend and apply to such arbitration.

Certificate o commutation to be given by Commissioners.

10. On the amount payable for such commutation being finally ascertained and determined the Commissioners shall make and deliver to the owner a certificate in writing under the hand of their clerk specifying the liabilities so commuted and the lands whereon they were chargeable and those lands shall thenceforth accordingly be exonerated in perpetuity from such liabilities which shall thereupon be transferred to and discharged by the Commissioners, Provided that nothing in this section shall be taken or construed to release such owner from his obligation to contribute in conjunction with all other ratepayers upon the level to the maintenance and repairs of any works which in the absence of any default on the part of the Commissioners have sustained damage by an extraordinary flood or tempest.

Certificate to be registered.

11. Every certificate of exoneration from liability shall be registered with the clerk to the Commissioners in a book to be kept for the purpose and to be called "the commutation book" and for his trouble in respect of such certificate the clerk shall be paid by the owner so commuting such reasonable fee as the Commissioners may from time to time appoint.

Record of charge.

12. The record of any such charge as aforesaid shall be deposited by the Commissioners in the office of the clerk of the peace for the county of Monmouth and shall be kept by him subject and according to the provisions of the public general Act passed in the first year of the reign of Her present Majesty chapter eighty-three and such record or any certified copy thereof shall be receivable in evidence in all legal proceedings.

Priority of rentcharges.

13. A rentcharge shall be deemed a chief rent and be the first charge on the exonerated lands after any chief rents existing at the time of the creation thereof.

Recovery of rentcharge

14. If any rentcharge be in arrear for fourteen days after the same shall have become due the Commissioners may recover the

A.D. 1884.

same in the same manner as tithe rentcharge is recoverable or with full costs of suit in any court of competent jurisdiction.

Power to enter into possession &c. where owner fails to pay rentcharge.

15. If any rentcharge shall be in arrear for the space of six months and no sufficient distress can be found upon the lands charged therewith or if any owner liable to pay any rentcharge is or becomes bankrupt or is after diligent inquiry unknown to the Commissioners or cannot be found by them then and in every such case and as often as the same happens the Commissioners (by way of additional remedy and whether any action or suit or other proceeding against such owner has been brought by them or not) may on or at any time and from time to time after the expiration of one month from service of a notice on such owner or in the case where such owner is unknown or cannot be found after the expiration of one month from the affixing of a notice on some conspicuous part of the lands charged therewith of their intention to put in force the powers of the present section proceed as follows (namely) :—

(1) The Commissioners may enter into receipt of and demand and receive from tenants and occupiers and persons liable the rents and profits of such lands and in case of non-payment may use all or any such lawful remedies by way of distress or otherwise for recovering and obtaining payment of the same or any part thereof as may be used by landlords in ordinary cases and may do all things necessary or expedient for recovering and receiving the rents and profits as if they were the owners of the lands and the tenants occupiers and persons liable shall pay the rents and profits to the Commissioners and the receipt of the treasurer or of any officer of the Commissioners appointed in that behalf shall be and shall alone be an effectual discharge for the same;

(2) Where any such lands are in the occupation of the owner or are unoccupied or unproductive at the time when the Commissioners would be entitled under this Act to enter into the receipt of the rents and profits thereof (if any) or at any time afterwards while the claim of the Commissioners is unsatisfied then and in every such case and as often as the same happens the Commissioners may enter into possession of the lands and may occupy and use the same or any part thereof;

(3) The Commissioners may from time to time (at the best rent they can obtain for the same) let from year to year any such unoccupied or unproductive lands or any part thereof and receive the rents and profits thereof as if they were the owners thereof;

(4) Any justice may on the application of the Commissioners order any constable with proper assistance to enter on the said

lands and to deliver possession thereof to the person to whom they are so let.

Application of rents and profits received.

16. All rents and profits received in respect of any such lands as aforesaid shall be applied in the manner and in the order following (namely):—

(1) There shall be paid thereout any chief rent payable in respect of the lands;

(2) There shall be retained on behalf of the Commissioners the amount of the rentcharge which the owner is at the time of the commencement of such receipt by the Commissioners liable to pay to them;

(3) There shall be paid thereout all taxes rates assessments expenses of repairs and other outgoings properly payable by the owner in respect of the lands (except any chief rent) and all expenses incurred by the Commissioners in relation thereto by reason or in consequence of the failure of the owner thereof to pay to them any such rentcharge or other expenses as aforesaid;

(4) There shall be paid the interest on all mortgages and other incumbrances on the said lands;

(5) The surplus (if any) shall be paid to the owner his representatives or assigns;

(6) Upon satisfaction of all moneys payable under this section the Commissioners shall cease (if in occupation) to hold possession of such lands and if the same shall have been let by them from year to year shall forthwith give due legal notice to determine the tenancy thereof.

Right of Commissioners to rents to exclude that of owner &c.

17. Whenever the Commissioners so enter into the receipt of the rents and profits or into possession of any such lands then for and in respect of the period during which their claim against the owner is unsatisfied as well after the termination of that period as during its continuance the owner of the lands shall not have any right to receive any rents or profits of the lands or have any interest therein except under the provisions of this Act directing the application of rents and profits received by the Commissioners and for and in respect of the period aforesaid as well after its termination as during its continuance every or any such right shall as against any person taking the lands through or under the Commissioners be by virtue of this Act absolutely extinguished.

Commutation money of lands belonging

18. Any purchase or compensation money paid into the Bank of England in respect of any lands belonging to parties under disability under the authority of any Act or Acts of Parliament and

A.D. 1884.

parties under disability may be satisfied out of certain funds paid into *Bank of* England.

also any moneys held upon trusts authorising the investment thereof in the purchase of other lands to be limited and settled upon the like uses trusts and purposes as the lands in respect of which the owner for the time being shall (in exercise of any of the provisions of this Act) desire to commute any liabilities are limited or settled or otherwise applicable to such purpose may by order of the Chancery Division of the High Court of Justice to be obtained by petition in a summary way be applied in the commutation of the liabilities to be imposed by the Commissioners upon the lands in respect of which such money shall have been paid or upon any other lands settled therewith or held to or upon the same or like uses trusts or purposes and as to any such money not amounting to two hundred pounds and which shall have been paid to or shall be held by trustees or by any such party under disability the same may be applied by the trustees or such other party in the commutation of such liabilities without any order of the said division.

Occupiers liable to repair &c. to pay rentcharge.

19. When and if any owner not being also the occupier of any lands with such liabilities as aforesaid attaching thereto shall commute the same and the tenant or occupier thereof shall by his lease or agreement be liable to the payment of such liabilities then and in any such case such owner shall and may receive and recover from such tenant or occupier the amount of the rentcharge at the same time in the same manner and by the same ways and means as such owner is entitled or authorised to receive and recover the rent of such land from such occupier.

Commissioners may execute works and purchase lands by agreement.

20. The Commissioners may from time to time out of the moneys borrowed under the powers of this part of this Act do all or any of the following things:

They may subject to the provisions of sections 17 to 20 (both inclusive) of the Land Drainage Act 1861 construct any new works without giving the notice required by section 29 of that Act;

They may renew restore and improve any existing works;

They may make any roads necessary or convenient for any of the purposes of this part of this Act; and

They may for any of the purposes of this part of this Act purchase or otherwise acquire by agreement any lands or any easement therein thereover thereunder or thereupon not being an easement of water.

Consideration for such acquisition.

21. The consideration for any such acquisition may be either money or land or a mixed consideration of money and land and on

any exchange the Commissioners may give or take any money for equality of exchange.

Power to take easements &c. by agreement.

22. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Commissioners any easement right or privilege (not being an easement right or privilege of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the last-mentioned Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants or to such easements rights or privileges as aforesaid.

Money for purchase of lands may be paid out of moneys in hands of Commissioners or levied on lands benefited &c.

23. Every sum of money to be paid for the purchase of such lands shall be paid in the first instance out of any moneys in the hands of the Commissioners and the Commissioners may levy such moneys on the lands and premises which shall receive benefit or avoid damage by or from the construction of new works or the making improvements in existing works according to the provisions of the Land Drainage Act 1861.

Provided always that if any dispute shall arise between the Commissioners and any person interested in such lands and premises either as to the amount or as to the liability to have such moneys levied such dispute shall be determined by arbitration in manner herein-before provided or such person may at his option appeal to the quarter sessions subject to and in accordance with the provisions of section 47 of the Land Drainage Act 1861.

Commissioners may sell or retain abandoned &c. lands.

24. The Commissioners as to the lands and hereditaments specified in the First Schedule to this Act which have been forfeited or abandoned by the owners or which have been allotted to the Commissioners in respect of forfeited lands may sell and dispose of the same either together or in parcels and either by public auction or by private contract for such price or prices and to such person or persons as they shall think expedient and the receipt of the Commissioners for the purchase moneys of the lands and hereditaments so sold shall be an effectual discharge to the purchaser who shall not be answerable or accountable for any misapplication or non-application of such moneys or be bound to see to the application thereof but in the event of the Commissioners being unable to obtain a price or prices in their judgment adequate for such lands the Commissioners may hold and retain possession thereof until such time or times as they in their discretion shall think proper

A.D. 1884.

and in the meantime may apply the rents and profits thereof to purposes to which the works fund herein-after defined is applicable.

Power to retain sell &c. lands acquired under powers of Act.

25. The Commissioners may retain hold and use for such time as they may think fit and may from time to time sell lease exchange or otherwise dispose of in such manner for such consideration and on such terms and conditions as they think fit and in case of sale either in consideration of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands acquired by them under this Act and may sell exchange or dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make execute and do any deed act or thing proper for effectuating any such sale lease exchange or other disposition.

Proceeds of sale of surplus lands to be treated as capital.

26. The proceeds of the sale of any lands or rents of the Commissioners shall be applied by the Commissioners in payment off of any money borrowed by them under the powers of this part of this Act or shall be carried to the credit of any sinking fund for repayment of such moneys and subject thereto shall be carried to the credit of the works fund.

As to borrowing moneys.

27. The Commissioners may from time to time borrow and reborrow on security of the rentcharges with the sanction of the Land Commissioners for England any sum or sums necessary for the purposes of this part of this Act and the following provisions shall have effect with respect thereto (that is to say) :—

(1) Such sum or sums shall be borrowed and reborrowed 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 at least 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

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 recoverable by the Local Government Board in a summary manner. 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 notwithstanding any trusts to

A.D. 1884.

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 money;

(6) A person lending money to the Commissioners shall not be bound to inquire as to the observance by them of any provision of this Act 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 one hundred 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 rentcharges 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 cost of receiving such rentcharges be fully paid and upon such appointment being made all such rentcharges

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 part of this Act shall be applied to and for the purpose for which it was borrowed being in every case a purpose to which capital is properly applicable and any surplus thereof shall be carried to the credit of the said sinking fund.

"The works fund."

28. (1.) The Commissioners shall establish a fund to be called "the works fund" and the Commissioners shall pay to the credit thereof all sums received by them for or in relation to the commutation of liabilities and all other sums by this part of this Act specifically directed to be paid to the credit thereof.

(2.) The works fund shall be applied as is herein-after directed:—

First. In or towards the recouping the general fund of the Commissioners any moneys paid by them thereout for or towards the payment of the costs charges and expenses of this Act as herein-after defined.

Secondly. In paying the costs charges and expenses of and incident to the maintenance and repair of works.

Thirdly. In paying the interest on any moneys borrowed and the instalments of any annuities granted by the Commissioners under the powers of this part of this Act.

Fourthly. In providing the sinking fund prescribed by this part of this Act.

Lastly. The surplus (if any) shall be carried to the credit of and form a reserve fund.

Power to enter on lands &c.

29. The Commissioners for the purpose of making repairing maintaining renewing or restoring any works may exercise the powers contained in the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and those provisions are accordingly incorporated with this Act and in construing those provisions for the purposes of this Act the expressions "the company" shall mean "the Commissioners" and the expressions "the railway" and "the centre of the railway" shall respectively mean any of such works and the centre thereof.

A.D. 1884.

For the protection of the Alexandra Docks &c. Company.

30. Whereas the Alexandra (Newport and South Wales) Docks and Railway Company are or claim to be the owners and the Newport (Alexandra) Dock Company Limited are or claim to be the lessees and occupiers of the lands mentioned or referred to in the Third Schedule to this Act and coloured red on the plan marked A signed in duplicate by H. S. Gustard on behalf of the Commissioners and by J. S. Adam on behalf of the company one copy of which has been deposited with the clerk to the Commissioners and the other copy with the secretary of the company and such lands are under the jurisdiction of the said Commissioners and are liable to the repair and maintenance of the sea walls and banks surrounding or partly surrounding the said lands and to the repair maintenance and cleansing of the reens watercourses and ditches intersecting the same in the manner shown upon the said plan and the said companies or one of them have constructed docks wharves walls roads buildings and other works on some portion of such lands and are about to construct additional docks wharves walls roads buildings and other works on other portions thereof and for the purposes of the aforesaid works it is intended to raise the present level of the said lands so as to be considerably above the level of the highest known tides and such raising of the level will have the effect of permanently protecting the river frontage and of preventing the inflow of water on to the adjoining or neighbouring lands and property including the lands coloured pink on the said plan:

(1) Therefore when and as soon as the level of so much of the lands coloured red upon the said plan as may be necessary for the purpose has been raised by the said companies or either of them to the satisfaction of the surveyor of the Commissioners (or in case of dispute) to the satisfaction of a surveyor to be appointed by the Land Commissioners for England in such a manner as to protect the river frontage and prevent the influx of water on to any adjoining or neighbouring lands and property and also so as to render a sea bank or wall upon the lands coloured red on the said plan unnecessary for the protection of any adjoining or neighbouring lands or property including the lands coloured pink on the said plan containing 193 acres or thereabouts then and in such case the amount of commutation rentcharge which shall be assessed in respect of the liability to repair and maintain the said sea walls and banks or other defences shall no longer be payable by the said companies or either of them;

(2) Nothing in this section shall be construed to take away lessen or alter the liability of the said companies or either of

them to maintain in good repair and to cleanse the reens ditches and watercourses to which they are at present liable or may become liable and the outfalls thereof and if any of them be diverted the like liability shall attach to the diverted reens ditches and watercourses and the outfalls thereof;

(3) Save as in this section is expressly provided nothing in this Act shall prejudice alter or take away any of the rights privileges powers or authorities of the Commissioners nor any provisions for their protection contained in any Act relating to the said companies or either of them.

Part III.

Provisions in connexion with Roads.

Application of Part III.

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

Meaning of "owner" in Part III.

32. The word "owner" in Part III. means the person corporation or body for the time being entitled to receive the rack-rent 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 III.

33. Any two or more persons having a right of way either as owners or occupiers (or partly in one right and 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 III.

Notice to be given of preliminary meeting.

34. The notice shall specify a convenient 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.

35. 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 the Second Schedule to this Act or to the like effect.

A.D. 1884.

Chairman to be chosen.

36. 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.

37. 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 III. the chairman 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.

38. 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 time and place to be named in the notice to determine whether Part III. shall be adopted or not.

Voting at second meeting.

39. At the second meeting a chairman shall be appointed by the majority of such 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.

As to resolution for adoption of Part III.

40. So soon as the said acreage has been determined the chairman shall propose a resolution for the adoption of Part III. Any amendment or amendments to omit any portion or portions of the said lands may be proposed and the meeting shall decide whether Part III. 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.

The majority required.

41. No resolution for the adoption of Part III. 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 of the owners so present as aforesaid. Provided that no such owner shall vote in respect of any land not included in the operation nor forming the subject matter of the proposition to be determined by such votes.

Proceedings when Part III. adopted.

42. If Part III. of this 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 III. shall be deemed expenses incurred in the execution of Part III.;

(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 road authority and shall subject to the provisions of this Act exercise all or such of the powers and duties of the road authority as such authority shall from time to time delegate to him;

(3) The chairman shall forthwith publish the resolution by which Part III. was adopted in a newspaper published and circulating in the county of Monmouth 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 any part of the road district lies and thereupon the owners of lands lying within such road district shall (subject to the provisions of Part III.) 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 with advantage be 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;

A.D. 1884.

(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.

43. 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 provided they restore the surface of such road and do not alter the levels thereof nor leave any unfenced excavation by the side thereof;

(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 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 or the highway board of any district 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 or highway board of such road or any part or parts thereof situate within such parish or highway district 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) 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 enclose 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 &c. may levy rates.

44. Any such vestry or highway board entering into any agreement with the road authority under the powers in that behalf in Part III. 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 rates.

45. All money payable to the road authority shall be carried to the credit of an account called "the road district fund" out 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 what portion thereof shall be for the repairing and maintaining of roads and other purposes to which revenue is properly applicable 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 distinguishing what portion thereof is for the repairing and maintaining of roads and other purposes to which revenue is properly applicable 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 for any purpose other than the repairing and maintaining of roads and other purposes to which revenue is properly applicable 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

A.D. 1884.

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.

46. To defray the expenses of executing the purposes of this part of this Act to which capital is properly applicable 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.

47. The road authority shall cause accounts to be kept of all receipts and disbursements under the powers of Part III. 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.

Deputies.

48. 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 the Second Schedule to this Act or to the like effect.

Waywarden may be summoned for non-repair.

49. 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.

Roads in more than one petty sessional division &c.

50. If any road district be in two or more petty sessional divisions 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 or county court districts. A.D. 1884.

Part IV.

Miscellaneous.

Notices of apportionment of general sewers tax.

51. (1.) The Commissioners shall hold a court of sewers for the level at twelve o'clock at noon on the last Monday in the month of July in every year for the hearing of all appeals against any general sewers tax levied or imposed in that year by the Commissioners or against any apportionment thereof and all such appeals shall be made to that court.

(2.) The provision contained in the Act of Parliament passed in the fourth and fifth years of the reign of Her present Majesty cap. 45. requiring the notices of apportionment of the general sewers tax to be served upon every occupier of land upon whom such tax shall be apportioned shall so far as affects the lands lying within the jurisdiction of the Commissioners from and after the passing of this Act be repealed and it shall be sufficient to affix a notice in writing print or lithograph or partly in one way and partly in the other signed by the clerk to the Commissioners on or near to the principal door of each parish church within the level and to insert a copy of such notice in a newspaper published in or near the district and usually circulated therein stating that a general sewers tax has been made and apportioned amongst the occupiers of rateable land within such parish and stating the day time and place for hearing appeals thereto. Provided always that if the Great Western Railway Company are to be called on to pay or contribute to such tax a copy of such notice shall be served at the office of the secretary of that company or forwarded to him by post in a registered letter addressed to the head office of the said company.

Works of interior drainage to be kept open by occupiers of land.

52. The several occupiers of land within the level shall at all times well and sufficiently cleanse scour repair and maintain the several watercourses drains sewers ditches gouts and all other works of drainage which convey water from his lands or from the lands of any other occupier to or towards the works of the Commissioners and being within and immediately adjoining their respective lands and the Commissioners may determine what are such drainage works for the purposes of this and the following section and may declare the respective liabilities of any such occupiers in all cases where they have not been previously fixed or declared by Act of Parliament or by an award made in pursuance of an Act and the decision of the Commissioners shall be final and conclusive.

A.D. 1884.

THE THIRD SCHEDULE.

Certain lands situate in the parishes of Saint Woollos and Bassalleg in the county of Monmouth containing together 413 acres or thereabouts and consisting of or comprising the pieces of land distinguished on the tithe commutation map of the said parish of Saint Woollos by the Nos. 468, 540, 554, 555, 557, 558, 559, 560, 561, 563, 564, 565, 566, 567, 567A, 568, 569, 571, 572, 573, 574, 575, 576, 577, 578, 579, 589, 590, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 631, 631A, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 650A, 651, 652, 652A, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 664A, 665, 666, 667, 668, 668A, 669, 670, 671, 672, and 673A, and parts of the pieces of land distinguished on the same map by the Nos. 469, 552, 553, 562, 570, 580, 582, 588, 591, 594, 608, 622, 623, 673, and 624 and part of the piece of land situate in the parish of Bassalleg and distinguished on the tithe commutation map of that parish by the number 64.

LONDON: Printed by Eyre and Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1884.