ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

****

Cap. viii.

An Act for amending an Act passed in the Forty-second Year of the Reign of His Majesty King *George* the Third, for draining and improving certain Fen Lands and Low Grounds in the Parishes of *Downham Market, Wimbotsham, Stow Bardolph,* and *Denver,* in the County of *Norfolk.* [20th *May* 1851.]

WHEREAS an Act was passed in the Forty-second Year of the Reign of His Majesty King *George* the Third, intituled *An Act for draining and improving certain Fen Lands* 42 G. 3. c. 19.
and Low Grounds within the several Parishes of Downham Market, Wimbotsham, Stow Bardolph, *and* Denver, *in the County of* Norfolk: And whereas the Commissioners for executing the recited Act have raised by way of Annuity and have borrowed the Money which they are authorized to raise under the Provisions of the recited Act, which they have duly expended, and they have also contracted several Debts, which they are unable to discharge, and it is expedient that they should be authorized to raise a Sum of Money to enable them to discharge such Debts, and also for more effectually carrying into effect same of the Provisions of the recited Act, and that such Act should

also be otherwise altered and amended; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Recited Act and this Act to be construed as One Act.

I. That the recited Act (except such Provisions as are not now in force, or are repealed, altered, or otherwise provided for,) and this Act shall be construed as One Act.

Short Titles of recited Act and this Act.

II. That in citing the recited Act for any Purpose it shall be sufficient to use the Expression "The *Downham Fen* Drainage Act, 1802," and in citing this Act it shall be sufficient to use the Expression "The *Downham Fen* Drainage Act, 1851."

Certain Provisions in recited Act repealed.

III. That Section Thirty-three, with respect to Penalties for destroying Works and committing other Injuries, and Section Forty-six, with respect to Limitation of Actions, in the Copies of the recited Act printed by the Printers to the Queen's most Excellent Majesty, shall be and the same are hereby repealed.

Interpretation of Terms.

IV. That in the recited Act and this Act the following Words and Expressions have the several Meanings hereby assigned to them respectively, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Word "Person" shall include any Body politic, corporate, or collegiate, civil or ecclesiastical, aggregate or sole:

The Word "Commissioners" shall mean the Commissioners for executing the recited Act and this Act:

The Word "Land" shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure:

The Word "County" shall include any Division of a County.

Power to Commissioners to assess a further Tax on Lands.

V. That the Commissioners shall annually tax, charge, and assess all the Fen Lands and Low Grounds mentioned and comprised or described within the Boundary set forth in the recited Act, and the Owners or Occupiers thereof, with an Acre Tax not exceeding in any Year Four Shillings *per* Acre, and in such Proportion for any greater or less Quantity than an Acre, in addition to the Tax or Taxes imposed or authorized to be imposed under the recited Act upon the said Lands and Grounds or any of them; and the said Tax to be imposed under the Authority of this Act shall be called the "Further Tax;" and such Tax shall be payable at the same Times and Places respectively, and to the same Persons respectively,

tively, and in the same Manner in all respects, as the Taxes authorized to be imposed, charged, and assessed upon the said Lands and Grounds or any of them by the recited Act are thereby taxed, charged, and assessed, and directed to be paid, and shall be recoverable and recovered in the same Manner as the Taxes authorized to be imposed by the recited Act are made recoverable: Provided always, that the several Lands which under the recited Act are exempt from a Portion of the Taxes authorized under the recited Act to be imposed, charged, and assessed thereon, by reason of any former or present Owner having under the Powers of the recited Act bought off the same, shall not on that account be exempt from the Further Tax by this Act authorized to be charged and assessed.

Additional Tax to be charged on certain Lands.

VI. And whereas the present or former Owners of the several Lands mentioned in the First Schedule to this Act annexed have dug up such Lands, whereby the same are rendered much below the Level of the other Lands, but previous to such Owners so digging up such Lands they severally paid, under the Provisions of the recited Act, to the Treasurer of the Commissioners under the recited Act, Twenty Years Taxes in advance of the Amount of Tax then imposed or assessed on the Occupiers of the said Lands: And whereas the said Lands will be more materially benefited than the other Lands mentioned in the Boundary set forth in the recited Act, by a Steam Engine and other Works of Drainage recently erected and made by the Commissioners under the recited Act, and it is just that such Lands should be charged with a higher Rate of Tax than the other Lands comprised in the recited Act: Be it enacted, That the Commissioners shall annually tax, charge, and assess all the Fen Lands and Low Grounds mentioned and set forth in such Schedule, and the Owners or Occupiers thereof, with an "additional" Acre Tax not exceeding in any Year One Shilling and Sixpence *per* Acre, and so in proportion for any greater or less Quantity than an Acre, in addition to the Tax or Taxes of Four Shillings herein-before authorized by this Act to be imposed upon the said Lands and Grounds; and the said Tax authorized under this Provision to be imposed shall be called the "Additional Tax;" and such Additional Tax shall be payable at the same Times and Places respectively, and to the same Persons respectively, and recoverable in the same Manner in all respects, as the Taxes authorized to be imposed, charged, and assessed by the recited Act are imposed, charged, assessed, and directed to be paid; and such Additional Taxes shall be applied in the same Manner and for the same Purposes as the Rates or Taxes called the Further Tax may be applied.

New Taxes to be charged equally.

VII. That the said respective Taxes of Four Shillings *per* Acre, and One Shilling and Sixpence *per* Acre, shall be charged and assessed

assessed equally and in the same Proportions on the Lands and Grounds in respect of which the same is by this Act authorized to be taxed, charged, and assessed.

Power to borrow Money on Further and Additional Taxes.

VIII. That it shall be lawful for the Commissioners, from Time to Time, and as often as Occasion shall require, to borrow at Interest, on Mortgage of the Further and Additional Taxes by this Act directed or authorized to be imposed, any Sum of Money not exceeding in the whole the Sum of Three thousand five hundred Pounds, in addition to the Annuities and the Sums of Money heretofore borrowed and now due; and for securing the Repayment of the Money so to be borrowed, with Interest, the Commissioners or any Five of them present at any Meeting may assign the Further and Additional Taxes by this Act directed or authorized to be imposed, or any Part thereof, with all proper Powers or Remedies for recovering and enforcing Payment thereof, to the Person who shall lend such Money, or some Person appointed by him, in like Manner as is herein or in the recited Act provided with respect to any Monies borrowed under the Provisions thereof.

Application of Money borrowed on new Taxes.

IX. That the Money to be borrowed and raised upon the Credit of the Further and Additional Taxes by this Act granted shall be applied by the Commissioners towards paying and discharging the Costs, Charges, and Expenses of and incidental to the obtaining and passing of this Act, and then in Payment of the Costs, Charges, and Expenses of carrying the Provisions of the recited Act and this Act into execution.

Power to borrow Money at a lower Rate of Interest for paying subsisting Securities bearing a higher Rate.

X. That if the Commissioners shall be able to borrow any Money at a lower Rate of Interest than any subsisting Securities made or given by them under the recited Act or this Act shall bear, it shall be lawful for them, from Time to Time, and as often as Occasion shall require, to borrow the same, as they shall think proper, on Mortgage of all or any of the Taxes by the recited Act or this Act directed or authorized to be imposed, for the Purpose of paying and discharging such subsisting Securities; and it is hereby declared, that the Money to be borrowed under the present Provision, and the Interest for the same, may be secured by an Assignment by the Commissioners acting under the Provisions of the recited Act and this Act, or any Five of them, of the said Taxes charged with such subsisting Securities, either under the recited Act or this Act, or any Part or Parts thereof respectively, with all Powers and Remedies whatsoever for recovering and enforcing Payment thereof, in like Manner in all respects as is herein-before provided as to the said Sum of Three thousand five hundred Pounds, and the Interest thereof.

XI. That

Power to borrow additional Money.

XI. That it shall be lawful for the Commissioners from Time to Time to borrow at Interest, on Mortgage of the Taxes by the recited Act and this Act directed or authorized to be levied, or of any Part or Parts thereof respectively, any Sum of Money which they may think necessary to be raised for the Purpose of paying off any Money which may have been previously borrowed or may be then due under any of the Powers or Provisions in the recited Act or in this Act contained (and all the Powers and Provisions in the recited Act or in this Act contained with respect to any Monies authorized to be borrowed shall apply to the Monies borrowed under this present Provision): Provided always, that the Taxes under this Act authorized to be imposed shall not be charged with any existing Mortgage Debt of the Commissioners under the recited Act, nor shall the Taxes authorized to be imposed by the recited Act be charged with any future Mortgage Debt of the Commissioners which shall be raised under the Provisions of this Act, except any Mortgage which may from Time to Time be raised for paying off any existing Mortgage Debt.

What Maps and Surveys, &c. may be used in carrying into effect Provisions of this and recited Act.

XII. That it shall be lawful for the Commissioners to adopt and make use of any existing Surveys, Maps, and Plans, parochial or otherwise, of all or any Part of the Lands or Grounds by the recited Act and this Act liable to the Payment of any Tax or Assessment; and the Commissioners may, in their Discretion, from Time to Time order and direct all or any Part of such Lands or Grounds to be surveyed and mapped; and any Person employed on such Survey, Map, or Plan may enter on any taxable Lands or Grounds for that Purpose; and a Copy of or Extract from any Survey, Map, or Plan so adopted or made use of, and also the said mentioned Survey or Map, when authenticated to the Satisfaction of the Commissioners, and signed by any Five or more of them, shall be binding on the several Persons charged with the Payment of such Taxes and Assessments for their several Lands and Grounds, and shall be admitted in Evidence in all Courts whatsoever, in all Cases, Suits, and Actions touching anything done in pursuance of the recited Act and this Act, or either of them.

Sinking Funds to be provided for Liquidation of Mortgages.

XIII. That for the Purpose of extinguishing the Mortgage Debts which are now or may be hereafter charged upon the Rates, Taxes, and Funds to be raised under the recited Act and this Act, the Commissioners shall and are hereby required to establish Sinking Funds, and invest for that Purpose annually, in Government or Real Securities in *England*, in the Names of any Three of the Commissioners or their Treasurer for the Time being, any annual Sums of Money amounting in each Year to not less than Three Pounds Ten Shillings nor more than Four Pounds for every One hundred Pounds of such respective Mortgage Debts which may be then subsisting, and shall out of such

Sinking Funds, in such Manner and at such Time as the Commissioners may think fit, pay off and discharge such Mortgage Debts.

Power to re-borrow Money, with the Consent of the Inclosure Commissioners.

XIV. That if by means of the Sinking Funds, or otherwise than by borrowing for the Purpose, the Commissioners shall pay off any Money borrowed under the Authority of the recited Act, or which may be borrowed under the Authority of this Act, and the Inclosure Commissioners for *England* and *Wales*, after Inquiry into the Purpose for which a further Sum of Money shall at any Time be stated to be required for the Purposes of the recited Act or this Act, and having due Regard to any surplus Rates or Funds which may be applicable for or towards the Purpose for which a further Sum may be so stated to be required, shall, by some Writing under their Seal, sanction the reborrowing of a specified Amount of Money, it shall be lawful for the Commissioners again to borrow the Amount so paid off, and the reborrowing of which shall be so sanctioned, and so from Time to Time as often as the said Inclosure Commissioners shall in like Manner sanction the same; and all the Powers and Provisions in the recited Act and this Act contained with respect to any Monies authorized to be borrowed shall apply to the Monies to be reborrowed under this Provision.

Form of Mortgage.

XV. That every Mortgage or Assignment to be made in pursuance of this or the recited Act, and every Transfer of any Mortgage, shall be by Deed duly stamped, in which the Consideration shall be truly stated, and may be in the Forms in the Second Schedule to this Act annexed, or to the like Effect.

Occupiers of Lands, &c. comprised within Boundary set forth in recited Act to keep certain Dykes in repair.

XVI. That all Occupiers or Tenants of any Lands or Grounds mentioned, comprised, or described within the Boundary set forth in the recited Act shall from Time to Time and at all Times hereafter make and maintain good and proper outside Division or Partition Dykes to their respective Lands of the Width at the Top of Eight Feet at the least, and at the Bottom of the Width of Three Feet and of the Depth of Five Feet at the least, and keep the same well rhoded and cleansed for the free Passage of the Water.

Power to Commissioners to reduce Droveways, and order surplus Lands to be sold.

XVII. That it shall be lawful for the Commissioners at any of their Meetings from Time to Time to order the common Droveways belonging to the Commissioners, or any Parts thereof, to be reduced in Width to such an Extent as that no Part of such Droveways shall be less than Twenty-four Feet wide where the same shall at the Time of passing of this Act be of greater Width, and thereupon to order all such Parts of the said Droveways as shall not be situate within the reduced Boundary thereof, but without Prejudice to the Owner of any adjoining Land to have a Right of Road, Carriage,

and Driftway over the same to such Land, to be sold and absolutely disposed of, in such Portions and Parcels and in such Manner as to them in their Discretion shall appear most advantageous and expedient, and either by Public Auction or Private Contract; and it shall be lawful for any Five or more of the said Commissioners from Time to Time, pursuant to an Order in that Behalf made at some Meeting of the Commissioners, to sign, seal, and execute all necessary Agreements, Conveyances, and Assurances for conveying the Right, Title, and Interest of the Commissioners in the said Portions of the said Droveways so sold to the respective Purchasers thereof; and all such Conveyances, Agreements, and Assurances shall be good, valid, and effectual to all Intents and Purposes whatsoever: Provided nevertheless, that no Order for Sale of any Part of the said Droveways shall at any Time be made by the Commissioners unless Notice of the Intention of proposing the Sale thereof shall be stated in the Notices convening the Meeting at which such Proposal is intended to be taken into consideration; provided further, that previously to any such Sale the Commissioners shall offer to the respective Owners of the Land adjoining the same such Portions of the Droveways so to be sold as may adjoin their respective Properties, at such Prices as the Commissioners may think fit; and it shall not be lawful for the Commissioners to sell the same, either by Private Contract or by Public Auction, to any Person, at a less Price than the respective Proprietors of the adjoining Lands shall offer to give for the same, and for which they shall complete the Purchases thereof within a reasonable Time to be fixed by the Commissioners; and any Sale or Deed of Conveyance of any Lands or Hereditaments by the Commissioners already made, in conformity with the Powers hereby conferred upon the Commissioners, shall be as valid and effectual as if made after the passing of this Act.

Penalty for Nonpayment of Taxes.

XVIII. That all Rates and Taxes imposed or charged on any Lands or Grounds by virtue of the recited Act or this Act, on the Occupiers thereof, shall be paid to such Person, at such Place, and at such Time as the Commissioners shall direct, not being later in any Year than the Thirtieth Day of *September*; and if such Rates and Taxes or any Part thereof shall not be paid within One Calendar Month after the Time at which the same shall be so directed to be paid, the Occupier of any of the said Lands or Grounds who shall have made default in Payment of such Rates and Taxes shall be charged with and pay the Penalty of Two Shillings in the Pound on the Amount of such Rate and Tax, and in the same Proportion for any fractional Part of a Pound; and such Rates, Taxes, and Penalties shall be recovered in the same Manner as any Rates, Taxes, and Penalties under the recited Act are to be recovered.

XIX. That

Appointment of Auditor, who shall make a Declaration.

XIX. That the Chairman of the Court of Quarter Sessions for the Time being for the County of *Norfolk* shall and he is hereby required from Time to Time to nominate some fit and proper Person to be Auditor of the Accounts of the Commissioners; and the Person so to be nominated shall on his Appointment make and sign before One of Her Majesty's Justices of the Peace a solemn Declaration that he will faithfully and impartially, according to the best of his Skill and Judgment, execute the Powers and Authorities reposed in him as Auditor by virtue of this Act; and the Auditor so appointed shall receive from the Commissioners a reasonable Remuneration for his Time and Trouble, not exceeding Four Guineas *per Annum*, and all such Expenses as he shall be put unto attending the auditing of such Accounts.

Auditor to audit Accounts, and, if found correct, to sign the same.

XX. That the Auditor so nominated shall attend, as soon as conveniently may be after the General Meeting of the Commissioners to be held in the Month of *April* in every Year, at their Office, or at some other convenient Place to be appointed by them, and from Time to Time shall, in the Presence of their Clerk, if he desire to be present, proceed to audit the Accounts of the Commissioners for the Year preceding the said General Meeting; and the Commissioners shall by their Clerk produce and lay before such Auditor the Accounts allowed and passed at such General Meeting, together with proper Vouchers in support of the same, and all Books, Papers, and Writings in their Custody or Power relating thereto; and any Person interested in the said Account, either as a Creditor of the Commissioners or as a Taxpayer, may be present at the Audit of the said Accounts, by himself or his Agent, and may make any Objection to any Part of such Account; and if the said Accounts be found correct such Auditor shall sign the same, in token of his Allowance thereof; but if such Auditor think there is just Cause to disapprove of any Part of the said Accounts, he shall disallow the same; and so much of the said Account as shall be disallowed by the Auditor shall not be chargeable or allowed by the Commissioners.

Power to Auditor to disallow Part of Account.

Power to Commissioners to appeal against Disallowance of Accounts.

XXI. That the Commissioners, on giving Fourteen Days Notice in some Newspaper published in the County of *Norfolk* of their Intention so to do, may appeal to One of the Two next General Quarter Sessions for the County of *Norfolk*, or at some Adjournment thereof, against any such Parts of the said Accounts as shall be so disallowed of; and on the Hearing of such Appeal any Person who may have paid any Tax, Charge, or Assessment collected or levied under the Provisions of the recited Act or this Act may be heard in opposition thereto; and after hearing such Appeal the Justices may make such Order as they think proper on the Matter so appealed against, and also as to the Payment of the Costs of the Commissioners and of any

Party

Party who may be heard in opposition to such Appeal, as they think fit; and every such Order shall be final.

Commissioners to cause annual Account to be prepared, and transmitted to Clerk of Peace, and to be open for Inspection.

XXII. That the Commissioners shall every Year cause an annual Account in abstract to be prepared, showing the total Receipt and Expenditure of all Funds levied by them by virtue of the recited Act and this Act for the Year ending on a Day down to which their Accounts shall have been made up, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited, and certified by the Chairman of the Commissioners and by the said Auditor, and shall send a Copy of the said Account, free of Charge, to the Clerk of the Peace for the County of *Norfolk*, on or before the Thirty-first Day of *January* in each Year, which Account shall be open to the Inspection of the Public at all reasonable Hours, on Payment of the Sum of One Shilling for every such Inspection; and if the Commissioners shall omit to prepare and transmit such Account as aforesaid they shall be liable for every such Omission to a Penalty of Twenty Pounds.

Saving Rights of Governor, &c. of Bedford Level.

XXIII. That all the Estates and Interests, Rights, Powers, Privileges, and Authorities whatsoever, which by virtue of an Act of Parliament or otherwise are now vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, shall remain vested in the said Governor, Bailiffs, and Commonalty, and the Governor, Bailiffs, and Conservators, as fully as if this Act had not been passed.

General Saving.

XXIV. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and all and every other Persons, Bodies Politic, Collegiate, and Corporate, and their Heirs, Successors, Administrators, or Assigns, all such Estates, Rights, and Interests, not inconsistent with the Powers and Provisions of the recited Act and this Act, as they had and enjoyed of, in, to, or out of or in respect of the Lands, Grounds, and Premises hereby intended to be drained and improved, before the passing of this Act, or could or might have had or enjoyed in case the same had not been passed.

The FIRST SCHEDULE to which the foregoing Act refers.

Owners.	Occupiers.	Quantity of Taxable Land. A.	R.	P.
Brighton, Thomas, Heirs of -	John Garner - -	1	0	0
Bowers, William - -	Samuel Bowker - -	2	0	0
Chapman, William, Heirs of -	—— Harpley - -	6	0	0
Chapman, William, Heirs of -	Thomas Watts - -	1	0	0
Eagle, Robert - -	Himself - - -	2	0	0
Garner, John - - -	Himself - - -	1	2	0
Hootten, James, junior - -	Himself - -	14	0	0
Kemp, Anthony - -	Himself - - -	10	0	0
Neal, Henry - - -	Himself, late Hopkin -	18	3	39
Newton, Robert - -	Henry Clarke - -	3	1	0
Osborne, William - -	Himself - - -	2	0	0
Palmer, John - -	Henry Neale - -	5	0	0
Page, John - - -	John Page - - -	1	0	0
Palmer, John - - -	Henry Neal - -	6	0	0
Raby, George - -	Himself - -	7	0	0
Smith, Rev. S. C. - -	James Gromett - -	10	1	28
Snelling, John - - -	Mark Brown - -	4	3	0
Tuck, Thomas - -	Himself - - -	14	3	26
Trower, Matthew - -	Himself - - -	6	0	0
Trower, Matthew - -	Himself - - -	3	1	20
Ward, Benjamin, Heirs of -	Robert Grant - -	1	2	0

The SECOND SCHEDULE to which the foregoing Act refers.

Form of Mortgage.

By virtue of [*here name the Act*], we, the undersigned, being of the Commissioners acting in execution of the said Act, in consideration of the Sum of paid to the Treasurer to the Commissioners by of for the Purpose of the said Act, do grant and assign unto the said his Executors, Administrators, and Assigns, such Proportion of the Rates and Taxes and Funds arising or accruing by virtue of the said Act from [*here describe the Rates, Taxes, and Funds prepared to be mortgaged,*] as the said Sum of doth or shall bear to the whole Sum which is or shall be borrowed upon the Credit of the said Rates, Taxes, and Funds, to hold to the said his Executors, Administrators, and Assigns, from this Day until the said Sum of with Interest at per Centum per Annum for the same, shall be repaid and satisfied. In witness whereof we have hereunto set our Hands and Seals, the Day of in the Year of our Lord

Form of Transfer of Mortgage.

I of in consideration of the Sum of paid to me by of do hereby transfer to the said his Executors, Administrators, and Assigns, a certain Mortgage, Number , made by the Commissioners for executing the [*here name the Act*] to bearing Date the Day of for securing the Sum of and Interest [*or, if such Transfer be by Endorsement*, the within Security], and all my Right, Estate, and Interest in and to the Money thereby secured, and in and to the Rates, Taxes, and Funds thereby assigned. In witness whereof I have hereunto set my Hand and Seal, this Day of One thousand eight hundred and

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