CHAPTER lxx.

An Act to amend the Acts relating to the Lakenheath and Brandon Drainage, and to authorise the Commissioners to raise more Money; and for other purposes. A.D. 1874.

[30th June 1874.]

WHEREAS an Act (in this Act called "the Act of 1768") was passed in the eighth year of the reign of King George the Third, intituled "An Act for draining and preserving certain fen lands "and low grounds in the parishes of Lakenheath and Brandon, in "the county of Suffolk," and another Act (in this Act called "the Act of 1844") was passed in the session of Parliament held in the seventh and eighth years of the reign of Her present Majesty, intituled "An Act for amending and rendering more effectual "an Act for draining and preserving certain fen land and low "grounds in the parishes of Lakenheath and Brandon, in the county "of Suffolk:" 8 G. 3. c. 47. (*n.p.*) 7 & 8 Vict. c. xlii.

And whereas the Commissioners constituted and appointed by or under the provisions of the said Acts (in this Act called "the old Commissioners") are the lord or lords of the manor of Lakenheath for the time being, the heirs or assigns of the several persons mentioned in the first section of the Act of 1768, being possessed of the greater part of the property then belonging to them respectively in the fen lands and low grounds therein referred to, and in their absence their deputies or agents, being tenants or owners of lands in the said fen lands and low grounds, and seven persons, owners of not less than twenty acres of land in the said fen lands and low grounds, elected annually by owners of not less than six acres of land in the said fen lands and low grounds:

And whereas the fen lands and low grounds to which the Act of 1768 relates, and which are subject to the powers of the old Commissioners, are divided into two parts by a navigable cut called the Lakenheath Lode, whereof one part (in this Act called "the Great Fen") lies to the eastward of the Lakenheath Lode and southward of the Brandon River, and the other part (in this

A.D. 1874.

Act called "the Little Fen") lies to the westward of the Lakenheath Lode:

And whereas by the Act of 1768 the old Commissioners were authorised to levy taxes of two shillings per acre per annum on all the said fen lands and low grounds, and to borrow money on the security of the said taxes, and to construct the drainage works therein mentioned, and by the Act of 1844 (section 38) they were authorised to levy additional taxes on the fen lands and low grounds in the Great Fen at the rate of three shillings and sixpence per acre per annum, and (section 24) to borrow three thousand five hundred pounds on mortgage of the said additional taxes, and to execute the drainage works therein mentioned, being works from which the fen lands and low grounds in the Little Fen would derive no benefit:

And whereas the old Commissioners borrowed various sums of money under the powers of the Act of 1768, whereof there is now owing and secured by mortgage of the taxes leviable on the fen lands and low grounds in both fens the sum of four thousand pounds, and they also, under the powers of the Act of 1844, borrowed the said sum of three thousand five hundred pounds on mortgage of the additional taxes leviable on the fen lands and low grounds in the Great Fen, whereof there is now owing the sum of three thousand five hundred pounds:

And whereas further improvements in the drainage works of the Great Fen for supporting and strengthening the southern bank of the Brandon River, and for otherwise more effectually carrying into effect the objects of the recited Acts, are required, from which the fen lands and low grounds in the Little Fen will derive no benefit, and it is expedient that the Commissioners under this Act should be authorised to levy additional rates or taxes in the Great Fen, and borrow money on mortgage of such rates or taxes for the purposes of such improvements:

And whereas it is expedient that the commission appointed by the Act of 1768 should be reconstituted, and that the powers of individual commissioners should be restricted with respect to matters not affecting the fen in which the lands are situate from which they derive their qualification, and that the recited Acts should be otherwise amended:

And whereas the purposes of this Act 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: A.D. 1874.

Short title.

1. This Act may be cited as "The Lakenheath and Brandon Drainage Act, 1874," and the Act of 1768 may be cited as "The Lakenheath and Brandon Drainage Act, 1768," and the Act of 1844 may be cited as "The Lakenheath and Brandon Drainage Act, 1844," and the said three Acts collectively may be cited as "The Lakenheath and Brandon Drainage Acts, 1768, 1844, and 1874."

Recited Acts and this Act to be read as one.

2. The recited Acts (as varied by this Act) and this Act shall be read and construed as one Act.

Interpretation of terms.

3. In construing this Act the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

The expression "the Commissioners" shall mean the Commissioners to be appointed under the provisions of this Act:

The word "land" shall extend to messuages, lands, tenements, and hereditaments of any tenure, but shall not extend or apply to any land which is not liable to be taxed under the provisions of the Act of 1768:

The word "justice" shall mean justice of the peace acting within the limits of this Act, and the word "justices" shall mean two or more justices met and acting together:

The expression "court of competent jurisdiction" shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Old Commissioners to go out of office and new Commissioners to take their places.

4. On the second Tuesday in April one thousand eight hundred and seventy-five, the several persons who were Commissioners under the recited Acts (except the lord or lords of the manor of Lakenheath) shall cease to be Commissioners, and on and after that day the Commissioners for the putting the recited Acts and this Act into execution shall be—

1. Permanent Commissioners:
2. Elected Commissioners.

Permanent Commissioners.

5. The permanent Commissioners shall be the lord or lords of the manor of Lakenheath, and every person being an owner of not less than one hundred acres or an occupier of not less than two hundred acres of land situate wholly in the Great Fen, and every person being an owner of not less than twenty acres or an occupier of not less than fifty acres of land situate wholly in the Little Fen.

A.D. 1874.

Permanent Commissioners may appoint deputies.

6. Every permanent Commissioner in respect of ownership of land may from time to time appoint and remove a deputy or agent in like manner and subject to the like restrictions as if he were one of the persons named in the first section of the Act of 1768, and every deputy or agent so appointed shall have the same powers and duties as if he were appointed by one of the persons so named: Provided always, that every such deputy or agent shall be the tenant or owner of lands in the same fen as the lands from which the Commissioner who appointed him derives his qualification, and if any Commissioner shall be the owner of not less than one hundred acres of land in the Great Fen, and also of not less than twenty acres of land in the Little Fen, he shall be entitled to appoint or be represented by a deputy or agent in respect of each: Provided also, that where the ownership of not less than one hundred acres of land in the Great Fen or not less than twenty acres of land in the Little Fen is vested in several persons as joint tenants or tenants in common, or in a company or corporation aggregate, such persons, company, or corporation shall only exercise their powers as a Commissioner by deputy or agent, but any one of such persons, or any shareholder or member of such company or corporation, though not otherwise qualified, may be appointed deputy or agent.

Elected Commissioners.

7. The elected Commissioners shall be seven persons, each of whom shall be the owner of not less than twenty acres of land in the Great Fen, and pay the taxes leviable under the recited Acts and this Act in respect thereof, and be elected by persons who respectively shall be an owner of not less than six acres of land in the Great Fen, and five persons, each of whom shall be the owner of not less than fourteen acres of land in the Little Fen, and pay the taxes leviable under the Act of 1768 in respect thereof, and be elected by persons who respectively shall be an owner of not less than six acres of land in the Little Fen.

Annual elections for elected Commissioners.

8. The elected Commissioners shall continue in office for one year, and on the second Tuesday in April in the year one thousand eight hundred and seventy-five, and on the second Tuesday in April in every subsequent year, there shall be a meeting or separate meetings, as herein-after provided, of the persons who respectively shall be owners of not less than six acres of land in either fen for the election of Commissioners to supply the places of those then going out of office, but every Commissioner going out of office shall be eligible for re-election; and whenever from any cause there shall be no meeting, the Commissioners going out of office shall be deemed to have been re-elected.

Occasional vacancies.

9. Whenever an elected Commissioner dies or is disqualified or refuses to act (such refusal being signified by writing under his hand), then, as soon as conveniently may be after such death, disqualification, or refusal shall be made known to the clerk to the Commissioners, there shall be a meeting of the persons who respectively shall be owners of not less than six acres of land in the fen in respect of which such Commissioner was elected, to elect a Commissioner in his place.

Certain matters in relation to election of Commissioners, how to be fixed.

10. The old Commissioners with respect to the meeting for the election of elected Commissioners to be held on the second Tuesday in April in the year one thousand eight hundred and seventy-five, and the Commissioners with respect to all such meetings to be held thereafter, shall from time to time determine whether joint meetings shall be held of all persons entitled to vote for Commissioners in respect of either fen, or separate meetings for the election of Commissioners in respect of each fen, and shall also fix the hour and place or places for the holding of such meetings, and every such meeting shall be convened by advertisement inserted in a newspaper published in the county of Suffolk and circulating in the district, at least six days before the meeting, and by placards affixed in some conspicuous place or places within the district, and in the village of Lakenheath where notices are usually affixed.

Quorum.

11. The quorum of a meeting of the Commissioners shall be five for the Great Fen and three for the Little Fen, and notwithstanding anything in the recited Acts or either of them contained to the contrary, all questions considered at any meeting shall be decided by the votes of the majority present, whatever may be the number, provided there be a quorum, and if there be an equal division of votes, the chairman, in addition to his own vote as a Commissioner, shall have a casting vote.

Commissioners only to vote in matters affecting the fens for which they are qualified.

12. No Commissioner, whether permanent or elected, shall vote at any meeting of the Commissioners, or exercise any of the powers of the recited Acts or this Act with respect to matters which relate only to one of the said fens, unless he is qualified as a Commissioner with respect to that fen, and the lord or lady of the manor of Lakenheath for the time being shall be deemed to be qualified only with respect to the Great Fen.

Penalty for acting without qualification.

13. If after the second Tuesday in April one thousand eight hundred and seventy-five, any person not duly qualified pursuant to the provisions of this Act shall act as a Commissioner in carrying the recited Acts and this Act, or any of them, into effect, he shall for every such offence be liable to a penalty not exceeding twenty

A.D. 1874.

pounds, to be recoverable as any penalty is recoverable under the Act of 1844.

Power to levy additional rates in the Great Fen.

14. It shall be lawful for the Commissioners from time to time, as occasion shall require, to rate, assess, tax, and charge all the several lands within the Great Fen which are now rated and charged or liable to be rated or charged under the authority of the Act of 1844 with the yearly sum of three shillings and sixpence per acre, with such additional yearly sum of money per acre, and so in rateable proportion for any less quantity than an acre, as shall from time to time be necessary for carrying the several purposes of this Act into execution, not exceeding three shillings and sixpence per acre; and every such rate and assessment shall be entered in a book to be provided for the purpose, and signed by a majority of the Commissioners present at any general or special meeting to be convened for that purpose; and all such entries shall be open without fee or reward at all convenient times for the inspection of all persons rated or liable to be rated.

Certain provisions of Act of 1844 as to taxes to extend to this Act.

15. The provisions contained in the thirty-ninth and following sections of the Act of 1844, to the forty-fourth section inclusive, with respect to the additional taxes authorised by that Act, shall be incorporated with this Act, and be applicable with respect to the additional taxes by this Act authorised, as if they had been specially re-enacted in this Act in relation to those additional taxes; but any notice which by the said provisions is required to be published in some newspaper usually circulated in the county of Suffolk shall be good, so far as publication thereof in a newspaper is necessary, if published in any newspaper circulating in the Great Fen, and published in the county of Suffolk.

Application of money raised by taxes.

16. All money which shall arise from the rates and taxes by this Act authorised, after payment of the costs, charges, and expenses of applying for, obtaining, and passing this Act, and incident thereto, and of all money advanced by any person upon the guarantee or security of the Commissioners, or any of them, for such purposes or for prosecuting the drainage or other works of the district, with interest, shall be applied in the first place in payment of the interest of all moneys borrowed on mortgage under this Act, and then in carrying the purposes of this Act into execution, and in paying off all principal sums to be borrowed by the Commissioners under the powers of this Act, in such order as the Commissioners shall think proper.

Power to borrow on mortgage.

17. It shall be lawful for the Commissioners from time to time to borrow at interest, on the credit of the several rates and taxes

A.D. 1874.

by this Act granted, any sum of money not exceeding the sum of five thousand pounds, and, in the event of any part of such sum of money being repaid by the Commissioners, to re-borrow the same, and so from time to time, but so nevertheless that there shall not be owing on the security aforesaid any more than the sum of five thousand pounds in the whole at any one time; and for securing the repayment of the moneys so borrowed, with interest, the Commissioners, or any five of them, may assign over the said rates and taxes, or any part thereof, to the person who shall advance or lend such money, or his trustee, as a security for the payment of the money so to be borrowed, together with interest for the same.

Certain provisions of Act of 1844 relating to mortgages extended to this Act.

18. The provisions contained in the twenty-fifth and following sections of the Act of 1844, to the thirtieth section inclusive, with respect to the assignments or mortgages for securing the money by that Act authorised to be borrowed, and the forms of mortgage and transfer of mortgage referred to in those sections, shall be incorporated with this Act, and be applicable to the assignments or mortgages for securing the money by this Act authorised to be borrowed, and the forms of such mortgages and of transfers thereof, as if the same had been specially re-enacted in this Act with respect to such mortgages and forms.

Application of money raised by mortgage.

19. All the money which shall be raised on the credit of the rates and taxes by this Act granted shall be applied in the first place in paying the expenses of obtaining and passing this Act, or incident thereto; and all money advanced by any person upon the guarantee or security of the Commissioners, or any of them, for such purposes or for prosecuting the drainage and other works of the district, with interest, and afterwards in the construction of such works for strengthening and improving the bank on the south side of the Brandon River, and such other permanent improvements within the powers of the Commissioners under the recited Acts in the drainage of the fen lands and low grounds within the Great Fen, as the Commissioners may from time to time direct.

Taxes leviable within the Great Fen to be collected and applied by the Commissioners for that fen, &c.

20. All rates and taxes leviable under the recited Acts and this Act, or any of them, within the Great Fen, and all moneys raised by mortgage of those rates and taxes under this Act, shall be applicable only to purposes authorised by the recited Acts and this Act within the Great Fen, and such rates and taxes shall be collected by those Commissioners only whose qualification is derived from the Great Fen, and those Commissioners only shall exercise the powers of the said Acts, or any of them, for levying and enforcing payment of those rates and taxes, and of borrowing and

A.D. 1874.

paying off money borrowed on mortgage of those rates and taxes, and of directing, regulating, and controlling the expenditure of all moneys received from such rates and taxes or raised by means of such mortgages, and all other powers of the said Acts, or any of them, so far as they relate to and concern only the Great Fen; and for all or any of the purposes aforesaid those Commissioners may use the name of the Commissioners whenever requisite, as if they only were the Commissioners appointed under the provisions of the said Acts.

Taxes leviable within the Little Fen to be collected and applied by the Commissioners for that fen, &c.

21. All rates and taxes leviable under the Act of 1768 within the Little Fen shall be applicable only to purposes authorised by that Act within the Little Fen, and such rates and taxes shall be collected by those Commissioners only whose qualification is derived from the Little Fen, and those Commissioners only shall exercise the powers of the said Act and this Act, or either of them, for levying and enforcing payment of those rates and taxes, and of directing, regulating, and controlling the expenditure of all moneys received from such rates and taxes, and all other powers of the said Acts, so far as they relate to and concern only the Little Fen, or property lying and being within the Little Fen; and for all or any of the purposes aforesaid those Commissioners may use the names of the Commissioners whenever requisite, as if they only were the Commissioners appointed under the provisions of the said Acts.

Separate accounts to be kept.

22. Separate accounts shall be kept of all receipts and expenditure of moneys within the Great Fen, and of all receipts and expenditure of moneys within the Little Fen.

Repealing provisions of the Act of 1768 for recovery of rates by distress.

23. The provisions contained in the Act of 1768 for enforcing payment of the rates and taxes thereby authorised to be levied by distress and sale of the goods and chattels of the persons refusing or neglecting to pay the same, are hereby repealed.

Rates in arrear under any of the Acts may be recovered by distress as provided by the Act of 1844.

24. If any person rated or taxed under the authority of the recited Acts, or either of them, or of this Act, shall not pay any of the rates or taxes due from him under any of the said Acts, the same may be recovered by distress and sale of his goods and chattels in manner provided by the Act of 1844 for the recovery of the rates and taxes thereby authorised; and the provisions contained in the forty-fifth and following sections to the forty-eighth section inclusive of the Act of 1844 shall extend and be applicable in the case of all such rates and taxes as if the same were rates and taxes authorised by that Act; and the remedies hereby given, so far as relates to rates and taxes authorised by the Act of 1768, shall be in addition to all other remedies (except the remedy by distress) given by that Act for the recovery of such rates and taxes.

For recovering certain expenses or penalties.

25. If the owner or occupier of any land in either of the said fens shall be liable to any expenses or penalties under the recited Acts, or either of them, by reason of neglect or refusal sufficiently to widen, deepen, rode, scour, cleanse, open, or repair any drain, dyke, or ditch, and shall not pay the same for the space of fourteen days after demand thereof in writing by the Commissioners or their collector, any justice may, on the application of the Commissioners or their collector, summon such owner or occupier to appear before him, at a time to be mentioned in the summons, to show cause why the expenses or penalties for which such owner or occupier is liable should not be paid; and in case no sufficient cause for the non-payment of such expenses and penalties shall then be shown, the same shall be levied by distress and sale of the goods and chattels of such owner or occupier in like manner as rates or taxes and penalties may be levied under the provisions of the Act of 1844.

Proceedings if sufficient distress cannot be found.

26. If sufficient distress cannot be found, all such lands shall be and remain a security for the payment of such expenses and penalties remaining unpaid, and all goods, chattels, and effects which may at any time thereafter be found on such lands may be distrained and sold in manner aforesaid, until all such expenses and penalties, and all costs and expenses incident to any previous distress and to the then distress and sale, shall be fully paid and satisfied.

Distresses under this Act, how to be levied.

27. Where under the provisions of this Act any sum of money may be levied by distress, the same shall be levied in manner provided by the Act of 1844, and the provisions contained in the sixty-fourth and following sections of that Act, to the sixty-seventh section inclusive, shall extend and be applicable in the case of every such sum of money as if the same were directed to be levied by distress under the provisions of that Act.

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