CHAPTER clxx.

An Act for the reclamation of Open Salt Marshes in the parish of Moulton and elsewhere in Lincolnshire. A.D. 1873.

[21st July 1873.]

WHEREAS an Act was passed in the year one thousand seven hundred and ninety-three, "for dividing and enclosing the "commonable salt marshes, droves, commons, and waste lands "within the parish of Moulton, in the county of Lincoln," and by the said Act, after reciting the title of Sir Joseph Banks, Baronet, to the impropriate tithes of corn yearly arising within a certain district of the said parish, and the title of Maurice Johnson, Esquire, as being seised of the rectory impropriate of the parish of Moulton, to the tithes of corn yearly arising within the residue of the said parish, and to certain moduses or customary payments in lieu of tithes within the said parish, and the title of the Reverend Maurice Johnson, clerk, as vicar of the vicarage of the said parish and parish church of Moulton aforesaid, to certain tithes in kind arising within the said parish, and to certain moduses or customary payments in lieu of tithes within the said parish, provision was made for the setting out of certain specific portions of the said commonable salt marshes, droves, commons, and waste lands, as allotments to be divided between the said Sir Joseph Banks, Baronet, his heirs and assigns, the said Maurice Johnson, his heirs and assigns, and the said Maurice Johnson and his successors, vicars as aforesaid, in certain proportionate shares, which shares should be had and taken by them respectively in lieu of all tithes, both great and small, moduses, and compositions in respect of the said commonable salt marshes, droves, commons, and waste lands, and in pursuance of the said Act the Commissioners therein named duly made their award bearing date the ninth day of November one thousand eight hundred and three: Moulton Inclosure Act, 33 G. 3. (1793).

And whereas by another Act passed in the said year 1793, entitled "An Act for embanking and draining certain salt marshes "and low lands within the several parishes of Spalding, Moulton, 33 G. 3. c. cxvi.

A.D. 1873.

" Whaplode, Holbeach, and Gedney, in the county of Lincoln, and " for preventing the same marshes and lands from being over- " flowed with the sea, and for altering an Act passed in the 31st " year of the reign of His present Majesty, intituled An Act for " dividing and enclosing the commons, marshes, droves, waste " lands, and grounds in the parish of Gedney and hamlet thereof " called Gedney Fen, in the county of Lincoln," provision was made for the embankment and drainage of (amongst other commonable salt marshes) the commonable salt marshes comprised within the operation of the said recited Act, and it was provided that all such future accretions of salt marsh fronting the commonable salt marshes in the parish of Moulton, meaning thereby the said commonable salt marshes comprised within the operation of the said recited Act (except so much as would become the property of the Earl of Buckinghamshire as by the now reciting Act provided for), should be and were thereby vested in the several persons entitled to rights or interests in the several commonable salt marshes therein directed to be embanked in such and the same proportions and interests which such persons then respectively had or enjoyed in the said commonable salt marshes therein directed to be embanked:

And whereas by virtue of the said secondly recited Act the salt marshes forming the subject-matter of the said Act were embanked, and among other works of the Commissioners under the same Act a sea bank was erected, part whereof extends from the Fosdyke Bridge Road to the Holbeach and Whaplode Sluice into the Holbeach, Whaplode, and Moulton Outfall Creek:

And whereas since the said sea bank was erected the trustees of the River Welland have made a new channel and outfall for the said river, whereby the waters of the River Welland, which theretofore flowed in a variable channel between the banks of the Estuary or Wash, are now confined within a narrower channel, and the space between the said channel and the said sea bank has become silted up and consists of open salt marshes, comprising about six hundred acres, which would if reclaimed and drained be capable of cultivation, and it is expedient that provisions should be made to that end:

And whereas the Right Honourable Lord Boston is or claims to be owner in severalty of part of the said open salt marshes, and Richard Jackson and Edgar Walter Garland are or claim to be owners in severalty of certain open salt marshes adjoining or near thereto:

And whereas the boundaries of the portions of the open salt marshes which belong or are claimed to belong to Lord Boston and to the said Richard Jackson and Edgar Walter Garland respectively

are not accurately defined, and the boundaries of the several parishes of Moulton, Holbeach, and Fosdyke in the said salt marshes are also not accurately defined:

And whereas the Reverend John Russell Jackson, clerk, is the vicar of the vicarage of the said parish and parish church of Moulton aforesaid, and as such is entitled to receive and take whatsoever tithes and moduses or customary payments in lieu of tithes in respect of the said open salt marshes are of right due and payable to the vicar of the said parish for the time being:

And whereas the lords of the several manors of Spalding, with its members Moulton Harrington and Moulton Fitzwalter, and of the several moieties of the manor of Moulton Dominorum, and the impropriators and owners of tithes in the parish of Moulton, claim to have an interest in the said open salt marshes, and Mary Bett, William Bett, the representatives of Charles Bonner, deceased, and Charles Foster Bonner, the representatives of Samuel Faulkner, deceased, Frederick Lyon Hopkins, William Garfit, and Thomas Garfit, being or claiming to be or to have been the owners of certain frontage lands in the parish of Fosdyke on the left bank of the River Welland, also claim to be entitled to part of the said open salt marshes, and also claim to be entitled to other rights over the same salt marshes, and the owners of the several common rights allowed by the Commissioners acting in execution of the herein-before first-recited Act also claim to be entitled to the whole or to the residue, as the case may be, of the said open salt marshes, and it is expedient that the rights of the several claimants and the boundaries of the said several parishes should be ascertained, and that the lands herein-after described should be embanked, drained, and allotted, and that the other provisions herein-after contained should be made with relation thereto:

And whereas 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,)

1. This Act may be cited as the "Moulton, &c. Salt Marshes Act, 1873." Short title.

2. The open salt marshes over which the powers of this Act extend are: Limits of Act.

(1.) The open salt marsh, including the portion thereof belonging or claimed to belong to the Right Honourable Lord Boston,

A.D. 1873.

bounded on the west by the artificial channel of the River Welland, on the east by the present sea bank, on the north by the open salt marsh belonging or claimed to belong to Richard Jackson (No. 2), and on the south by the public highway leading from Holbeach to Fosdyke Bridge:

(2.) The said open salt marsh belonging or claimed to belong to Richard Jackson, bounded on the west by the artificial channel of the River Welland, on the south by the open salt marsh (No. 1) herein-before described, on the east and south-east by the old sea bank, and bounded on the north by the Holbeach, Whaplode, and Moulton Outfall Creek, and by the open salt marsh belonging or claimed to belong to Edgar Walter Garland, Esquire (No. 3), or by one of them:

(3.) An open salt marsh belonging or claimed to belong to Edgar Walter Garland, Esquire, bounded on the west partly by the artificial channel of the River Welland, and partly by the open estuary of the Welland, on the east by the old sea bank, on the south by the said outfall creek and the open salt marsh belonging or claimed to belong to the said Richard Jackson, or by one of them, and on the north by the open salt marsh belonging or claimed to belong to the trustees of the late John Reckerby:

The said salt marshes are in the several parishes of Moulton, Fosdyke, and Holbeach, some or one of them, in the parts of Holland in Lincolnshire:

But such limits are nevertheless, with respect to so much of the said open marshes as belongs or is claimed to belong to the said Richard Jackson and Edgar Walter Garland, subject to the option herein-after reserved on their behalf.

Appointment of Commissioner.

3. Edward Millington, of Fleet, in Lincolnshire, civil engineer, is hereby appointed the Commissioner for the purposes of this Act, and he shall remain in office until he shall have made the award herein-after mentioned, or until he dies, resigns, or becomes incapable of acting.

As to vacancies in office of Commissioner.

4. If the said Commissioner or any successor of the Commissioner dies, resigns, or becomes incapable of acting before the award shall be made, it shall be lawful for any three of the owners of common rights in the parish of Moulton, or for any of the persons herein-before named, by writing under their hands, to require the Inclosure Commissioners for England and Wales to appoint another Commissioner in his stead, and the said Inclosure Commissioners shall make the said appointment, and in every such case

the Commissioner so appointed shall have and exercise all the powers vested by this Act in the Commissioner herein-before nominated.

Providing for legal assessor.

5. The Commissioner upon the hearing and determining of any contested claim or objection, or any objection to the report herein-after mentioned, and in ascertaining the boundaries of the said parishes, manors, and properties, and upon awarding any costs as herein-after mentioned, shall be assisted by an assessor appointed by the Inclosure Commissioners for England and Wales, who shall be a practising barrister of ten years standing at the least, and the determination of the Commissioner as to all such contested claims and objections to the report, parish boundaries, boundaries of manors and properties, and costs, shall be made pursuant to and in conformity with the decisions of such assessor, and it shall be lawful for the said Inclosure Commissioners to make such appointment upon the application of any party interested: Provided nevertheless, that such assessor shall not interfere further in the execution of this Act than in settling what contested claims or objections to the report shall be allowed or disallowed, how the said parish boundaries, boundaries of manors and properties shall be determined, and what costs (if any) shall be allowed to or paid by any parties.

Functions of Commissioner as to works.

6. The Commissioner may and shall execute the following works, and may, subject to the reservations herein-after contained, enter upon and use the said open salt marshes for the purposes thereof:

(1.) He may make the necessary embankments, sea walls, and defences for reclaiming the said open salt marshes from the sea, and may for that purpose unite such banks or defences with any existing banks now bounding the said open salt marshes:

(2.) He may sewer and drain the said marshes, and for that purpose make all such cuts, watercourses, channels, sluices, and other works as may be necessary for conveying the water away from the said salt marshes; provided that nothing contained in this Act shall authorise the Commissioner or any other persons to make any cut exceeding the width of eleven feet at the bottom:

(3.) He may set out such roads and ways as he may deem convenient to afford access to the said marshes and to the various allotments therein, and he may connect the said roads with the Fosdyke Bridge Road, and with the road adjoining the present sea bank, and may enter upon and take the necessary lands for that purpose, if such land be within the limits of this Act.

A.D. 1873.

As to procedure for ascertainment of claims.

7. The Commissioner shall before commencing any works under the authority of this Act give notice in writing under his hand to Lord Boston, his heirs and assigns, to the owners of the said manors respectively, to the owners of the tithes in the parish of Moulton, to the said Richard Jackson and the said Edgar Walter Garland, and the said Mary Bett, William Bett, or their respective heirs or assigns, the representatives of Charles Bonner, deceased, and Charles Foster Bonner, his heirs or assigns, the representatives of Samuel Faulkner, deceased, and Frederick Lyon Hopkins, his heirs or assigns, William Garfit and Thomas Garfit, respectively, that he will upon a day or days to be fixed in the notice settle the boundary lines of the property of the said Lord Boston and of the said Richard Jackson and Edgar Walter Garland, and the boundaries between the several parishes of Moulton, Fosdyke, and Holbeach, in the salt marshes, and will inquire into and determine any claims of the lords of the said manors, and of the impropriators and owners of tithes in the parish of Moulton in, over, or with respect to the said marshes, and will also inquire into and determine the claims of the owners of common rights, and of owners in severalty in, to, or upon the said marshes, and he shall also give such public notice as is provided for in the General Inclosure Act, 1845, of the intention to hear such claims. And he shall accordingly hear publicly and investigate whatsoever evidence may be adduced before him with respect to the matters aforesaid or any of them, and the owners of common rights in the parish of Moulton may either in person or by any persons appointed by them for that purpose, and all other parties interested may in person or by their agents, be present and be heard concerning such claims or any of them, and the decision of the Commissioner upon the matters aforesaid or any of them shall (subject to the provisions herein contained and the appeal herein-after provided for) be final and binding on the said claimants and every of them, and their heirs, successors, and assigns, and also on the said owners of common rights: Provided, that if the persons claiming such common rights fail to appear in support thereof at the times and places so fixed by the Commissioner, and do not assign any reason satisfactory to the Commissioner for their absence, the person or persons so failing to appear shall be deemed absolutely and for all purposes to have relinquished their claims.

Providing for appeal.

8. The following provisions shall have effect with respect to appeals from any determination of the Commissioner concerning disputed claims, and shall be in addition to and not in substitution for the provisions herein-after contained or incorporated with respect to appeals:

(*a.*) The Commissioner shall, if required so to do by any claimant, declare in writing his determination concerning any dis-

puted claim, and he shall deliver a copy signed by him of such determination to any claimant demanding the same, and if such claimant shall be dissatisfied with the said determination of the Commissioner as being founded upon any error in a point of law, he may within three weeks after the same determination shall have been delivered to him apply to the Commissioner to state and sign a case by way of appeal, setting forth the grounds of his determination, for the opinion thereon of the Court of Queen's Bench (herein-after called "the court"), and the said claimant (herein-after called the appellant) shall within one week after receiving such case transmit the same to the court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to any other party or parties interested in the subject-matter of such determination, herein-after called the respondents.

Security and notice to be given by appellant.

(*b.*) The appellant shall not be entitled to any such special case until he shall have entered into a recognizance before a justice or justices of the peace for the said parts of Holland, with or without surety or sureties, and in such sum as to the said justice or justices (after hearing the Commissioner and the respondents or any of them who may desire to be heard) shall seem meet, conditioned to prosecute such appeal without delay, and to submit to the judgment of the court, and to pay such costs as may be awarded by the same, and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the Commissioner all such costs and expenses as may have been incurred by him with relation to the preparation of such special case.

Court of Queen's Bench to determine questions on case.

(*c.*) The court shall hear and determine the question or questions of law arising upon any such case, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, and may make such other order in relation to the matter, and may make such orders as to costs as to the court may seem fit, and all such orders shall be binding and conclusive on all parties: Provided always, that the Commissioner stating a case in pursuance of this Act shall not be personally liable to any costs by reason of such appeal against his determination.

Case may be sent back for amendment.

(*d.*) The court may, if they think fit, send back any such case for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after the said case has been amended.

A.D. 1873.

Judge at chambers may determine case.

As to procedure upon such cases.

(*e.*) The authority and jurisdictions hereby conferred upon the court may be exercised by a judge of that court sitting in chambers, and as well in vacation as in term time.

(*f.*) No writ or proceeding other than as herein-before mentioned shall be required for obtaining the determination of the court on any such case, and every such case shall be subject to the same rules and orders of practice and procedure as cases submitted to a superior court by virtue of the Act of the 20th and 21st years of Her present Majesty, chapter 43, intituled "An Act to improve the "administration of the law so far as respects summary "proceedings before justices of the peace," so far as the same rules and orders are applicable, and the 13th section of the same Act shall be applicable to recognizances entered into in manner aforesaid, as if they had been recognizances entered into in pursuance of that Act.

Boundaries of parish.

9. The Commissioner shall ascertain and set out the boundaries of the said several parishes of Moulton, Holbeach, and Fosdyke in the said salt marshes, and the following sections of the General Inclosure Act, 1845, namely, sections 39 to 45, both inclusive (containing provisions as to setting out and ascertaining boundaries of parishes), as the same sections may have been amended and enlarged by the Acts since passed for amending and enlarging the same, shall, so far as the case will admit thereof, and so far as the same are not inconsistent with this Act, be applicable to such several parishes and the boundaries thereof, and the ascertaining of such boundaries respectively, and such Commissioner shall have all the powers of the Inclosure Commissioners or Assistant Inclosure Commissioners acting under the said General Inclosure Act, contained and set forth in the last-mentioned clauses or any of them, and after the said boundaries shall be so ascertained, set out, and fixed, the same shall and are hereby declared to be the boundaries of such parishes respectively as against all persons whomsoever, and any person interested who shall be dissatisfied with the determination of the Commissioner may have the question at issue determined by a jury in manner in the said general Act mentioned, or may remove the same into the Court of Queen's Bench by certiorari as in the said Act is mentioned, and thereupon such proceedings shall be taken and orders made as in the said Act are mentioned and the said court is empowered to make in cases removed to the same by virtue of the said Act.

Providing for costs.

10. In case the Commissioner, on the determination of any question herein-before referred to him, shall see cause to award any costs, it shall be lawful for him, upon application, to assess and

award such costs as he shall think reasonable to be paid to the person or persons, parish or parishes, in whose favour any such determination shall have been made, and by the person or persons, parish or parishes, against whom or which such determination shall have been made, and it shall be lawful for the Commissioner to assess and award that such costs respectively shall be charged upon the lands in such parish against which such determination shall be made, and the same shall be raiseable by sale of such part of the said lands in that parish as the Commissioner may determine before the same shall be awarded and allotted to the claimants thereof, and the provisions in this Act contained as to sales of land for the general expenses of this inclosure shall be applicable to sales for the purpose of paying such costs: Provided always, that each party or parties, parish or parishes, shall, one calendar month before the Commissioner shall proceed to inquire into and ascertain such boundaries, give him notice in writing specifying the particulars of the boundary or boundaries which such person or persons, parish or parishes, shall be desirous of having established, and the Commissioner shall, within seven days after the receipt thereof, give to the other person or persons, parish or parishes, interested in the said matters copies of such notice or notices. A.D. 1873.

Providing for claims of owners of common rights.

11. The Commissioner shall also, after such public notices as he may think right, publicly investigate and determine the claims in, to, and over the said marshes of the owners of common rights in the parish of Moulton, and for the purpose of such investigation the Commissioner shall hear not only the parties making such claims, or persons on their behalf, but also persons interested in the matter and objecting to the said claims.

For ascertaining claims.

12. The following sections of the said General Inclosure Act, namely, sections 9, 10, 22, 45, 46, 47, 48, 55, 56, 57, 58, 59, and 60, providing for the ascertainment of claims and for other matters incidental thereto, and section 69, providing for the suspension of common rights, as the same sections may have been amended and enlarged as aforesaid, shall, so far as the nature of the case will admit thereof, and so far as the same are not inconsistent with this Act, be applicable to all persons claiming any right or interest in the lands to be inclosed under this Act, and to all claims thereunder, except that the Commissioner acting under this Act shall be substituted for the valuer acting under the said general Act, and shall have such powers of summoning witnesses, compelling the production of documents, and administering oaths and declarations as are in such general Act given to the Inclosure Commissioners, and except that it shall not be competent for any person or persons

A.D. 1873.

so claiming as aforesaid to appeal to the said Inclosure Commissioners or Assistant Commissioner, but the appeal under the 56th section shall be direct from the Commissioner to the court in the said section mentioned, and except that the Commissioner acting under this Act shall not be required to send a schedule of the claims and objections and his determinations thereon to the said Inclosure Commissioners.

Commissioner's report.

13. Sections 102, 103, and 129 of the said General Inclosure Act, relating to the report to be drawn up by the valuer, as the same sections may have been amended as aforesaid, shall, so far as the nature of the case will admit thereof, and so far as the same are not inconsistent with this Act, be applicable to the inclosure hereby directed, the Commissioner being substituted for the valuer acting under the said general Act, except that the Commissioner's report shall not be sent to the said Inclosure Commissioners, but that he shall cause a copy of the same to be deposited in the manner and at the place in the said general Act mentioned, and the objections (if any) to such report shall be heard and determined by such Commissioner assisted by such assessor as aforesaid.

Expenses of parties and witnesses.

14. Sections 131 and 132 of the said General Inclosure Act, relating to the expenses of parties and witnesses, shall also, so far as the case will admit thereof, and so far as the same are not inconsistent with this Act, be applicable to the persons interested in the said inclosure, and the expenses in the said general Act mentioned, except that the Commissioner acting under this Act shall be substituted for the Commissioners or Assistant Commissioner acting under the said general Act.

Commissioner to allot marshes.

15. When the Commissioner shall have sufficiently embanked the said marshes and shall have determined upon the said claims, and after such proceedings as herein-before mentioned or referred to shall have been had, and all objections to the Commissioner's report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions, and matters therein contained as aforesaid, he shall, as soon as conveniently may be, divide and allot the same marshes, so that the same may in his judgment be most conveniently occupied by the persons entitled thereto, and he may fence off the several allotments or adopt such other means as he may deem expedient for defining the limits of each allotment, and also for dividing the portions of salt marshes belonging to the several owners in severalty from those belonging to the owners of common rights and from each other.

A.D. 1873.

Providing for award.

16. The Commissioner shall by an award under his hand and seal set forth the several allotments made by him to each person entitled thereto, and shall annex to such award a plan to be drawn upon parchment or vellum, on which the public and private roads, paths, and drains, with the boundaries of the several allotments and the respective quantities contained therein, and such other matters and things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed, and a copy of the said award and plan, verified by the hand and seal of the Commissioner, shall be deposited in the parish church of every parish in which any parts of the said salt marshes are declared by the said award to be situate, and another copy of the same award and plan, verified as aforesaid, shall be delivered to the clerk of the peace of the parts of Holland in Lincolnshire, and another copy, verified as aforesaid, shall be delivered by the Commissioner to the Trustees hereinafter appointed. And the copy of the award and plan delivered to the said clerk of the peace shall be kept among the records of the said parts of Holland, and for the reception thereof the fee of two pounds two shillings shall be paid, and the said award and plan shall from the delivery thereof to the said clerk of the peace be deemed to be enrolled, and the provisions contained in the Act first Victoria, chapter eighty-three, shall apply to the award and plan so deposited, as though they were documents the custody of which is provided for in that Act.

Providing for expenses of Commissioner.

17. And for the purpose of providing for the expenses of the Commissioner attending the execution of this Act, be it enacted as follows:

(1.) The Commissioner shall allot and reserve such portions of the several salt marshes as he may think sufficient to defray by the sale thereof the expenses attending the applying for and obtaining of this Act, and the execution by the Commissioner of the powers of this Act, both with respect to the works to be executed by him and to his award:

(2.) He may sell and convey the said portions so allotted and reserved by him for the best price which he can obtain for the same, and his receipt for the purchase money shall be a sufficient discharge to the purchaser, and the purchaser shall not be required to see to the application of the purchase money or be liable for the misapplication thereof:

(3.) He may borrow money on mortgage of the said salt marshes: Provided, that any sum so borrowed shall be

A.D. 1873.

repaid out of the purchase money received from the sale of the portions of salt marshes herein-before authorised:

(4.) He shall, in addition to the portion of the marshes so allotted and reserved by him, allot and reserve a further portion if he thinks fit, which shall be vested in the Trustees herein-after mentioned for the purpose of defraying the expenses of maintaining, repairing, and renewing the banks and drains and other general works to be maintained by the Trustees.

Providing for remuneration of Commissioner.

18. The Commissioner shall receive such remuneration for his services as shall be determined by a majority of the votes of persons to whom the said marshes shall have been allotted, such persons being present in person or by proxy at a meeting convened with notice of the matter, or if the meeting declines to fix such remuneration, then as shall be determined by the Inclosure Commissioners for England and Wales upon the application of the Commissioner.

Providing for annual accounts of Commissioner.

19. The Commissioner shall make up annually a statement of all sums received and expended by him, inclusive of the remuneration payable to him (if such remuneration is payable annually), and shall submit such account, together with the vouchers relating to the same, to some person to be nominated as auditor by the Inclosure Commissioners for England and Wales upon the application of the Commissioner, and no charge in such accounts shall be valid unless the same shall be duly allowed by such auditor.

Providing for application of money borrowed.

20. All money raised by the Commissioner by sale of land and by borrowing shall be applied to the following purposes and in the following order:

(1.) In discharging the costs and expenses of applying for and obtaining this Act and incidental thereto:

(2.) In defraying the expenses attending the preparation of his award, including his remuneration and any legal expenses which he may incur with respect to the said assessor, or arising out of or with relation to the said award:

(3.) In executing the works hereby authorised:

(4.) As to the money raised by the sale of land in repayment of any money borrowed by the Commissioner on the security of the salt marshes, and in payment of any interest due at the time of such repayment:

(5.) If any surplus moneys remain in his hands after having deposited his award, he shall pay the same to the Trustees herein-after appointed.

Providing for balance of liabilities by Commissioner.

21. If when the Commissioner shall have made and deposited his award, any sums remain unpaid and owing by him with relation to any of the matters aforesaid, those sums shall be discharged by the Trustees herein-after appointed.

Lord Boston and others to pay proportion of expenses.

22. The Lord Boston, his heirs and assigns, and any person who shall be held by the Commissioner to be entitled to hold his land in severalty, shall pay a rateable proportion of the expenses of the inclosure by this Act authorised, in proportion to the land which may be so allotted to him as aforesaid, such proportion to be fixed by the Commissioner, and when received to be accounted for by him as part of the general funds of the inclosure.

Providing for appointment of Trustees.

23. When the Commissioner shall have made and deposited his award he shall give notice thereof by such means as he shall think sufficient, and he shall summon the persons to whom the said marshes have been allotted to meet at some place to be fixed by the notice for the election of three Trustees, and the following provisions shall apply to such election:

(1.) Every owner of an allotment in the said marshes shall be entitled to one vote, and he shall be entitled to an additional vote in respect of every acre so owned by him beyond the first acre:

(2.) An elector may appoint another elector to be his proxy, such appointment being in writing under the hand of the elector and attested by one witness:

(3.) The election shall be decided by a majority of the votes present in person or by proxy, and in case of equality of votes the chairman shall have a casting vote in addition to his original vote:

(4.) The said meeting shall choose its own chairman:

(5.) Every person qualified as an elector shall be qualified to become a Trustee.

As to duration of Trustees.

24. The Trustees so chosen shall remain in office for three years or until their successors are appointed, and on the first Thursday in the month of October in every third year there shall be a meeting for the election of Trustees, and the Trustees so from time to time elected shall also remain in office three years or until their successors be appointed, and the Trustees going out of office shall be always re-eligible: Provided, that no elector shall be entitled to vote unless he has paid any acre tax due from him under the powers of this Act.

Mode of supplying occasional vacancies.

25. If any of the Trustees die or resign, or cease to be a Trustee from any other cause than that of going out of office by rotation, the remaining Trustees may, if they think fit, elect another Trustee

A.D. 1873.

in his place, and every Trustee so appointed shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office.

As to annual meetings.

26. There shall be annual meetings of the Trustees at such place as the Trustees shall from time to time appoint, and every such meeting shall choose its own chairman.

As to the business of Trustees.

27. The following provisions shall apply to the transaction of business by the Trustees:

(1.) The quorum of Trustees shall be two:

(2.) Their principal office shall be at Spalding or at such other place as they may from time to time appoint:

(3.) They shall not be required to hold meetings monthly, but they may hold meetings at Spalding or at such other place as they may from time to time appoint:

(4.) Notice of every meeting shall be given to each Trustee by circular.

Providing for audit of accounts.

28. The accounts of the Trustees for the year preceding, ending upon the thirty-first day of December, shall be submitted by them to an annual meeting of the owners of lands in the said marshes, together with the vouchers, and the said meeting shall examine the same, and if found correct shall approve the same, and such approval shall be a sufficient discharge to the Trustees.

Trustees may appoint officers.

29. The Trustees may appoint such officers, clerks, collectors, and servants as they may think necessary for the transaction of their business, and they may rent or engage any office that they may deem requisite for the same purpose.

Property vested in the Trustees.

30. There shall be vested in the Trustees so appointed all embankments, drains, and other works executed by the Commissioner for the general purposes of the reclamation and allotment, and the matters so to be vested in the Trustees shall be set forth by the Commissioner in his said award and plan, and there shall be also vested in them the portion of the marshes allotted to them as aforesaid by the Commissioner, and the Trustees shall for ever after maintain, repair, and renew the said embankments and works.

Power to levy rates.

31. The Trustees may from time to time assess and levy an acre tax to be fixed by them upon the marshes, and the said assessment may be in the form contained in the schedule to this Act, and notice, signed by the clerk to the Trustees, of the times and places appointed for the payment of the said tax shall be given by advertisement in a newspaper published in Spalding or some other newspaper published in the county of Lincoln, and the said tax

may be collected by such persons as the Trustees shall from time to time appoint. A.D. 1873.

Occupier to deduct from rent.

32. Every occupier of allotted lands shall pay the acre tax assessed thereon, and may deduct the amount paid by him for acre tax out of the rent payable by him, and he shall be discharged from so much money as the acre tax paid by him amounts to, as if the same were actually paid to the person entitled to receive the rent of the land in his occupation.

Lessee for lives, &c. not to deduct.

33. Provided, that any occupier of lands, being lessee thereof under a beneficial lease for lives or under any lease or agreement, of the term whereof at the time appointed by the Trustees for the payment of any acre tax five years or more are unexpired, shall not be entitled to deduct the amount of the acre tax paid by him out of the rent reserved by his lease or agreement.

Owner to pay where no occupiers.

34. Where any lands assessed to the acre tax are unoccupied at the time of assessment the owner thereof shall pay the acre tax thereon.

Distress for acre tax.

35. Where any person liable to pay any acre tax fails for twenty-one days to pay the same, a justice, on the application of the Trustees, and after summons served on the person so failing, may issue his warrant of distress, and the bailiff or other person to whom the warrant is addressed shall seize and distrain any goods or chattels of the person so failing.

Sale of distress, &c.

36. All such distresses may be impounded, sold, replevied, and dealt with as in case of distress for rent in arrear on lease for years.

Return of surplus.

37. The surplus (if any) arising from the sale of any such goods and chattels (after payment thereout of the acre tax and the expenses of the distress and sale), with the unsold goods and chattels (if any), shall be returned, on demand, to the person whose goods and chattels are distrained.

Distress on goods at any time on lands.

38. Where sufficient distress for levying the acre tax and expenses is not found on the lands assessed, then those lands shall stand charged with payment thereof, and all goods and chattels from time to time thereafter found thereon may be distrained, dealt with, and sold as by this Act provided with respect to the original distress, until all arrears of acre tax and expenses, and the expenses of every further distress, and all other costs and charges incurred by reason of the nonpayment of the acre tax, are fully paid and satisfied.

A.D. 1873.

Several names in one warrant.

39. Any number of names or sums may be expressed in any warrant for the purposes of this Act, and either in the body of the warrant or in a schedule thereto.

Rules as to distress.

40. A distress levied under this Act shall not be unlawful nor shall any person making it be a trespasser on account of any defect or want of form in the warrant or in any other proceeding relative to the distress, nor shall any such person be a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by any defect, want of form, or irregularity may recover by proceedings in any court of competent jurisdiction full satisfaction for the special damage.

Recovery of acre tax.

41. The Trustees may recover any acre tax with costs by proceedings in any court of competent jurisdiction.

Power to borrow on mortgage of acre taxes.

42. The Trustees may from time to time borrow at interest on the security of the acre taxes leviable under this Act, or any part thereof, such sums of money as they think requisite for the execution of this Act, not exceeding in the whole the sum of six thousand pounds, and may mortgage the acre taxes leviable under this Act, or any part thereof, to secure the repayment of the money so borrowed, with interest accordingly.

Power to re-borrow.

43. If the Trustees at any time pay off otherwise than by instalments or a sinking fund any money borrowed by them, they may from time to time re-borrow the same or any less amount in manner aforesaid, and so toties quoties, but so that the total amount at any one time borrowed by them and remaining unpaid shall not exceed the sum of six thousand pounds.

Application of capital.

44. All money received by the Trustees from borrowing shall be applied by them in the manner and in the order following, and not otherwise; namely,

(1.) In discharging any debts or liabilities incurred by the Commissioner and left unpaid by him as aforesaid:

(2.) In purchasing lands necessary to be purchased for the purposes of this Act, and in executing the works by this Act authorised, and in paying off money borrowed by them under this Act.

pplication revenue.

45. All money received by the Trustees, not being money received from borrowing, shall be applied by them in the manner and in the order following, and not otherwise; (namely,)

(1.) In paying their necessary and proper establishment working expenses and the expenses of maintenance of their works:

(2.) In paying the interest from time to time accruing due in respect of their mortgage debt, and in setting aside such sum as may be from time to time required for the purposes of the sinking fund:

(3.) In carrying into execution the purposes of this Act.

Incorporating Commissioners Clauses Act as to mortgages.

46. The provisions of the Commissioners Clauses Act, 1847, "with respect to the mortgages to be executed by the Commissioners" shall apply to all moneys borrowed either by the Trustees or Commissioners under the powers of this Act.

As to neighbouring marshes.

47. The Trustees may contract with the owners of any lands in the neighbourhood of the said marshes for the use of any works of the Trustees, or of any sea banks or other defences vested in them, for the purpose of aiding in the reclamation of any adjoining marshes.

Providing for byelaws.

48. The Trustees may from time to time, but subject to the provisions of this Act, make byelaws for all or any of the following purposes:

For prohibiting any person from throwing or wilfully causing to fall into any sewer or drain, cut or watercourse of the Trustees any earth, stones, or soil or other matter which may cause the filling up or the obstruction thereof:

For prohibiting persons from cutting tunnels or drains or otherwise injuring the banks and drainage works of the Trustees:

For prohibiting persons from trespassing on the lands or works of the Trustees.

And the provisions with respect to the making of byelaws contained in "The Commissioners Clauses Act, 1847," shall apply to such byelaws: Provided that no such byelaws shall have effect until they are allowed by the justices at quarter sessions for the said parts of Holland, held at Spalding, after notice published in a Lincolnshire newspaper of the intention to apply for such allowance, such notice being published at least one month before the application for such allowance.

Reservation in favour of Mr. Jackson and Mr. Garland.

49. If within six months after the passing of this Act the said Richard Jackson or the said Edgar Walter Garland (in which names are included their respective successors in title) shall declare in writing to the Commissioner his desire that the portion of open salt marshes possessed by him shall be exempt from the operation of this Act, the Commissioner shall not exercise any power or authority over the said portions of salt marsh, and those portions shall be deemed to be in all respects exempt from the operation of this Act: Provided, that if at any time thereafter the said Richard Jackson and the said Edgar Walter Garland, or

A.D. 1873.

either of them, shall give notice in writing to the Commissioner or the Trustees (as the case may be) of his desire that the portions of salt marshes belonging to them respectively shall be included within the operation of this Act, it shall be lawful for the Commissioner or the Trustees, if they think fit, to include the said portions or either of them upon such terms and conditions as may be mutually agreed upon.

Roads to be public highways.

50. All roads to be formed by the Commissioner, other than private roads, shall after they have been opened for public use be deemed to be public highways, and shall thenceforth be maintained by the Trustees, who shall be repaid by the surveyors of highways of the several parishes of Moulton, Fosdyke, and Holbeach for the expense of maintaining the said public highways, in proportion to the number of acres of salt marshes reclaimed and inclosed under the powers of this Act which may be declared by the said award to be in each of those parishes respectively, and the said Trustees may issue their precept to the surveyors of highways of each parish for the amount from time to time due from that parish for the repair of the said public highways, and the amount declared in the said precept shall be a debt due from the surveyor of that parish to the Trustees, and may be recovered by them in any court of competent jurisdiction.

Providing for deposit of plan of part of works with Board of Trade.

51. One month previous to the commencement of any work intended to be constructed under the authority of this Act in, over, through, or across any land which is covered and uncovered by the flow and ebb of the tide at ordinary spring tides, the Commissioner shall deposit at the Board of Trade a plan of the intended work, and if within the space of one month after such deposit the Board of Trade give notice in writing to the Commissioner stating that they consider such work likely to interfere with navigation, then such work shall only be made according to such plans as the Board of Trade may approve.

Saving rights of the Crown.

52. Nothing contained in this Act or in any of the Acts incorporated herewith shall authorise the Trustees to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, without the consent in writing of the Commissioners for the time being of Her Majesty's Woods, Forests, and Land Revenues, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give), neither shall anything

in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors. A.D. 1873.

Saving rights of the Crown in the foreshore.

53. Nothing contained in this Act or in any of the Acts incorporated herewith shall authorise the said Trustees to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, the management of which is vested in the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give), neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

A.D. 1873.

SCHEDULE.

Form of Assessment.

The Moulton, &c. Salt Marshes Act, 1873.

We, the Moulton, &c. Salt Marshes Inclosure Trustees, do, by virtue of the above-mentioned Act, hereby assess and charge the lands specified in the Schedule hereto with the several sums and at the rate for every acre of the lands set forth in the same Schedule, and so in proportion for any quantity greater or less than an acre, and we order and direct that the rates hereby assessed shall be paid to , the collector appointed by us to receive the same, at his dwelling-house, situate in the of , on the day of 18 , between the hours of ten in the forenoon and four in the afternoon of that day.

Schedule above referred to.

Parish.	Occupier.	Owner.	Quantity.	Rate by the Acre.	Amount.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1873.