ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

Cap. v.

An Act to amend an Act for draining certain Fen Lands and Low Grounds in the Parish of *Yaxley* in the County of *Huntingdon*, and to remove certain Doubts, and facilitate the Execution of the said Act. [3d *May* 1852.]

WHEREAS an Act was passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for embanking, draining, improving, and preserving certain Fen Lands and Low Grounds lying in the Parish of* Yaxley *in the County of* Huntingdon, *called "The Undrained Fen:"* And whereas by the said Act the Churchwardens and Overseers of the Poor of the Parish of *Yaxley* for the Time being, or the Majority of them, are enabled to act as One Commissioner, and every Owner for the Time being respectively of Twenty Acres or more of Lands in their own Right is also appointed a Commissioner: And whereas the Commissioners appointed by virtue of the said Act are empowered to borrow a Sum not exceeding Three thousand Pounds, and to assign over the Rates and Taxes by such Act authorized to be levied; and it is provided that no Assignment shall be for a greater 1 W. 4. c. 53.

greater or less Sum than One hundred Pounds, and that every Assignment shall be executed by Five or more of the Commissioners, to be real Owners of Land sufficient to qualify them to be Commissioners in their own Right: And whereas, in consequence of the said Fen Lands being now vested in few Persons, and some of the Owners of Ten Acres of Land and upwards residing at a great Distance from *Yaxley*, it is expedient that Three Commissioners should be empowered to do such Acts as Five Commissioners are authorized to do by the said recited Act: And whereas the Commissioners, soon after the passing of the said Act, borrowed the said Sum of Three thousand Pounds at Interest at Five Pounds *per Cent. per Annum* in Thirty Securities, and such Securities were executed by Four of the Commissioners and by the Parish Officers aforesaid, and Doubts have arisen whether the said Parish Officers are qualified by the said Act to execute such Assignments; but inasmuch as the said Sum of Three thousand Pounds was *bonâ fide* advanced and lent, and applied for the Purposes of the recited Act, it is consistent with Justice that full Effect should be given to such Securities: And whereas by the Nineteenth Section of the said recited Act the Commissioners were empowered to make Forelands and Slamps on the Lands to be drained, or any Part thereof, making reasonable Satisfaction to the Person who had a Right to the Soil upon which any such Foreland or Slamp should be made, and by the Twenty-fifth Section of the said recited Act were directed to keep the same in Grass, and let the same, and apply the Rents for the Purposes of the said recited Act: And whereas the said Commissioners, soon after the passing of the recited Act, and in exercise of their Power so to do, made and set out certain Forelands and Slamps round the District to be drained, but never made any Satisfaction to the Persons having a Right to the Soil thereof, and have never let the same, by reason whereof such Persons have continued to possess and occupy the said Forelands and Slamps, and to pay all Drainage Taxes affecting the same, as if the recited Act had not been passed; and it is expedient to make Provision in respect thereof: And whereas the Parish Officers aforesaid have ceased to have any Interest in the Lands within the District comprised in the said Act, and it is expedient to alter the Constitution and Qualification of the Commissioners, and to amend and enlarge the Provisions of the said Act, and to make further Provision for facilitating the Execution thereof; 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:

I. That

The Yaxley Drainage Amendment Act, 1852.

Recited Act not to be altered, except by this Act.

I. That (except as by this Act expressly enacted) nothing in this Act contained shall be construed to amend, alter, or affect the Powers and Provisions of the said recited Act of the First Year of the Reign of His late Majesty King *William* the Fourth.

Section 82. of recited Act repealed.

II. That the Eighty-second Section of the said recited Act (relating to the Limitation of Actions and Suits) shall be and the same is hereby repealed.

Section 2. of recited Act repealed.

III. That the Second Section of the said recited Act (which enacts that the Churchwardens and Overseers of the Poor of the Parish of *Yaxley* for the Time being, or the Majority of them, shall be as One Commissioner, and also each and every Owner for the Time being respectively of Twenty Acres or more of Lands in their own Right, subject to be taxed by virtue of that Act, and lying respectively within the Limits therein described, shall be and is thereby appointed a Commissioner for putting that Act and the Powers and Authorities therein contained into execution,) shall be and is hereby repealed.

Appointment of Commissioners.

IV. That all Persons for the Time being who are or shall be severally Owners in their own Right of Ten Acres or more of the Lands subject to be taxed by virtue of the recited Act, and lying respectively within the Limits of such Act, shall be and are hereby appointed Commissioners for borrowing Money, executing Securities, and putting the recited Act and this Act, and the Powers and Authorities herein and therein contained, into execution.

Provisions as to Deputies not to be affected.

V. That, notwithstanding the Alterations made by this Act in the Qualifications of the Commissioners, the Third, Fourth, Fifth, and Sixth Sections of the recited Act, and the Rights secured thereby, of acting as Commissioners, appointing Commissioners or Deputies, or otherwise, shall not be altered or prejudiced.

Three Commissioners to be a Quorum.

VI. That Three Commissioners shall be a sufficient Number to constitute a General Meeting; and the said Commissioners, or any Three or more of them, shall and may validly and effectually do and execute all such Acts, Matters, and Things as the said Commissioners or any Five or more of them are by the said recited Act authorized or directed to do or execute, in the same Manner as if the Word "Three" had been written instead of the Word "Five," whenever in the said recited Act anything is authorized or directed to be done by Five Commissioners.

If Quorum do not attend, Meeting to be adjourned.

VII. That if at any Meeting of the Commissioners there be not Three Commissioners present within One Hour after the Time appointed

appointed for such Meeting, the Commissioners present, or any One Commissioner if only One be present, or their Clerk if no Commissioner be present, may adjourn such Meeting to another Day, at the same or any other Place within the Parish of *Yaxley*.

Forelands to remain the Property of Owners of Lands on which they were made.

VIII. That all Forelands and Slamps made by the Commissioners under or in exercise of the Powers of the recited Act, in respect of which Forelands and Slamps, or the Land on which the same were made, no Compensation or Satisfaction has been paid by the Commissioners to the respective Owners of such Land, shall be and remain the Property of the respective Owners for the Time being of the Lands taken for the Purpose of making such Forelands and Slamps, with full Power, nevertheless, to the Commissioners, to go upon the same from Time to Time for the Purposes of repairing the Banks, scouring out the Drains and Slamp Ditches, and depositing the Soil upon the said Forelands and Slamps.

Existing Mortgages confirmed.

IX. That from and after the passing of this Act the several Assignments (numbered One to Thirty inclusive) of the yearly Rates, Taxes, and Assessments arising by virtue of the said recited Act shall, as from their respective Dates, be considered to have been and shall be to all Intents and Purposes valid and effectual Assignments of the Rates, Taxes, and Sums of Money by the recited Act authorized to be charged and collected, for securing the Principal and Interest Monies by such Assignments respectively expressed to be secured, and that from and after the passing of this Act the several Persons to whom such Assignments respectively were made, or such Persons as do or shall rightfully claim through or under them respectively, shall have and may exercise the same Rights and Remedies in all respects for enforcing Payment of the Principal and Interest Monies by such Assignments respectively expressed to be secured as if the said Assignments at their respective Dates had been made and executed in strict Conformity with the Provisions of the said recited Act, for the Purposes by the said Act authorized.

Certain Clauses of recited Act as to Mortgages repealed.

X. That the Fortieth, Forty-first, Forty-second, Forty-fifth, and Forty-sixth Sections of the said recited Act shall, so far as regards any Mortgage Securities to be hereafter given or executed by the said Commissioners, be and the same Sections are hereby repealed.

Power to borrow Money at a lower Rate of Interest, to pay off Securities at a higher Rate.

XI. That if the Commissioners can at any Time borrow or take up any Sum of Money at a lower Rate of Interest than all or any of their Mortgage Securities for the Time being subsisting shall bear, or if the Mortgagee or Mortgagees for the Time being shall require Payment of the Principal Sum or Sums lent by him or them, then the said Commissioners, or any Three of them, may and they are hereby

hereby empowered, from Time to Time, at any of their General Meetings, to borrow on Mortgage or Bond any Sum of Money, either in One Sum or in several Sums, in order to pay off, and the Sum so borrowed shall be applied in paying off, the Principal Sums then due upon the Mortgage Securities; and the Receipts in Writing of the said Commissioners or any Three of them shall be sufficient Discharges to the Person or Persons advancing or lending the Sums therein respectively acknowledged to be received, who shall not be responsible for or bound to see to the Application of such Sums or any of them, or any Part thereof.

Power to secure Money borrowed on Mortgage, with Power of Sale.

XII. That it shall be lawful for the said Commissioners or any Three of them (whether real Owners of Land sufficient to qualify them to be Commissioners in their own Right or not), at any of their General Meetings, by Deed under their Hands and Seals, and duly stamped, in order to secure the Repayment of any Sum or Sums of Money which they may hereafter borrow for the Purpose of paying off existing Securities, and the Interest of such Sum or Sums of Money, to mortgage all or any Part or Parts of the Rates, Taxes, and Sums of Money arising or authorized to be charged or raised by the said recited Act, and to convey the Rates, Taxes, and Sums of Money intended to be mortgaged to the Person or Persons lending the Sum or Sums intended to be secured, or to a Trustee or Trustees for them, for an Estate of Fee Simple of Inheritance, but subject to Redemption on Payment of the Principal Sum and Interest intended to be secured, at such Time or Times as may be agreed upon; and the Mortgagee or Mortgagees of the Rates, Taxes, and Sums of Money so for the Time being mortgaged, his, her, or their Heirs and Assigns, shall be entitled, according to the Priority in Date of their respective Securities, and shall, after Default shall have been made in Payment of the Principal Sums or Interest secured by such Mortgage, have all the same Powers, Rights, and Privileges of assessing, raising, and recovering the Rates, Taxes, and Sums of Money comprised in their respective Mortgages as the said Commissioners or their Collector could have had in case no such Mortgages had been made; and every such Mortgage may contain such Covenants by the said Commissioners as may be agreed upon, which Covenants shall be available as against the Property of the said Commissioners as Commissioners, but shall not render such Commissioners, in their individual Capacities or their respective Properties, liable, and may contain also a Power of Sale upon such Terms as may be agreed upon of the Rates, Taxes, and Sums of Money comprised in such Mortgage, or any Part thereof, and also such other Provisions and Stipulations as may be agreed upon; and the Purchaser or Purchasers under any such Power of Sale

shall be seised of and entitled to the Rates, Taxes, and Assessments for the Time being sold and conveyed to such Purchaser or Purchasers for an absolute Estate of Fee Simple of Inheritance, free from all Equity of Redemption, and shall have the same Powers, Rights, and Privileges of assessing, raising, and recovering the same Rates, Taxes, and Assessments as the said Commissioners or their Collector could have had in case the same had never been mortgaged or sold; and for the Purpose of better securing the Payment of the Interest on the Principal Sum or Sums secured by any such Mortgage, any Receiver or Collector may be appointed of the Rates, Taxes, and Sums of Money therein comprised, or any Part thereof, and Provision may be made for the future Appointment of Receivers or Collectors; and any such Receiver or Collector shall act under such Circumstances, and have all or such of the Powers and Privileges of the said Commissioners or their Collector, and be remunerated in such Manner, as shall be agreed upon.

Commissioners may contract with others for Drainage of Districts.

XIII. That it shall be lawful for the said Commissioners, at any Time, as they shall think convenient, to contract and agree with any other Commissioners of Drainage, or Commissioners of Sewers, or other Person or Persons, for the Drainage of the Lands or Grounds within the Limits of the recited Act, or any Part thereof, for such Period and at and for such yearly or other Sum or Sums of Money respectively as may be mutually agreed upon; and such Sums of Money so to be contracted and agreed for shall be from Time to Time paid by the Commissioners out of the Rates, Taxes, and Sums of Money to be received by them by virtue of the recited Act.

Acts of unqualified Commissioners valid.

XIV. That all Acts and Proceedings of the Commissioners or of a Committee of Commissioners, or of any Person acting as a Commissioner, shall, notwithstanding it shall be afterwards discovered that there was some Defect in the Appointment of any such Commissioner, or Person acting as aforesaid, or that they, he, or any of them were disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Commissioner.

Expenses of Act.

XV. That the Costs, Charges, and Expenses of applying for and obtaining and passing this Act, and preparatory thereto, shall be paid by the Commissioners out of the Rates, Taxes, and Sums of Money by the said recited Act authorized to be raised, and the Commissioners may pay thereout Interest not exceeding the Rate of Five Pounds *per Centum per Annum* on any Sum of Money advanced for the Discharge of such Costs, Charges, and Expenses.

XVI. That

XVI. That in citing this Act in other Acts of Parliament, and in legal Instruments or other Proceedings, it shall be sufficient to use the Expression "The *Yaxley* Drainage Amendment Act, 1852." Short Title

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