ANNO DECIMO TERTIO

Georgii III. Regis.

CAP. XIX.

An Act to amend and render more effectual an Act paſſed in the Twenty-ſecond Year of the Reign of His late Majeſty King *George* the Second, intituled, *An Act for draining and improving certain Fen Lands within the Manor and Pariſhes of* Upwell *and* Outwell, *and in the Pariſhes of* Denver *and* Welney, *in the* Iſle of Ely, *and Counties of* Cambridge *and* Norfolk, ſo far as the ſame relates to the Lands lying on the South Side of *Popham*'s *Eau*.

WHEREAS by an Act made in the Twenty-ſecond Year of the Reign of His late Majeſty King George the Second, intituled, An Act for draining and improving certain Fen Lands within the Manor and Pariſhes of *Upwell* and *Outwell*, and the Pariſhes of *Denver* and *Welney* in the *Iſle of Ely*, and Counties of *Cambridge* and *Norfolk*, it is amongſt other Things enacted, That it ſhall and may Preamble. Act 22 *Geo.* II.

may be lawful to and for the Commissioners thereby appointed, or any Seven or more of them, at any of their Meetings to be held as therein directed, to assess, rate, tax, and charge, all and every the Owner or Owners, Occupier or Occupiers, of all and singular the Fen Lands within the Bounds described in the said Act, and all and every Commoner and Commoners, having Right of Common on the commonable Parts thereof, by an equal Tax, not exceeding One Shilling and Sixpence per Acre for the First Year, to be computed from the Twenty fifth Day of March, One thousand seven hundred and forty-nine, and not exceeding One Shilling per Acre for every Year afterwards, for carrying on, perfecting, and maintaining the Banks, Drains, Dams, Duttrys, Engines, and other Works of draining: And whereas the said Commissioners did, in pursuance of the said Act, assess and Rate the said Lands and Grounds, and erect Works and Engines for draining the same, from which the Land Owners and Occupiers have found the greatest Benefit; but the Works and Engines erected for draining the Lands on the South Side of Popham's Eau, are, by Length of Time and other Accidents, become so ruinous and decayed, as to be insufficient for the well-draining and Preservation of the said District, which cannot be effected without the Use of larger Engines: And whereas the present Tax of One Shilling per Acre is, and has been for some Years past, insufficient for the Purposes of maintaining the several Works made in pursuance of the said Act, for the draining and preserving that Part of the said District which lies on the South Side of Popham's Eau, whereby the said Commissioners have been under a Necessity of contracting several Debts, (over and besides such Sum or Sums as are now owing on the Security of the said Taxes); which said several Debts now remain unpaid, and cannot be discharged, nor the necessary Works for draining be repaired and maintained, but by laying a farther Tax on such Part of the said Fen Lands as lie on the South Side of Popham's Eau: And whereas the Powers and Authorities granted by the said Act are not sufficient for the effectual draining and Preservation of the said Fen

Lands:

Lands: Therefore, to the End the same may be well and sufficiently drained, and so maintained and continued; may it please Your Majesty that it may be enacted; and be it enacted by the King'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, That in order to raise a sufficient Sum for the new-making, repairing, and maintaining the several Works necessary for draining and preserving the said Fen Lands, it shall and may be lawful to and for the Commissioners appointed by, chosen, or to be chosen, in pursuance of the said former Act, who are hereby appointed Commissioners for putting this present Act, and all the Powers and Authorities hereby given, in Execution, or any Seven or more of them, at their Meetings, to be held upon the Second Tuesday in May, or at some other Meeting to be held by virtue of the said former Act, within Fourteen Days afterwards in every Year, (at which Meetings, or at One of them, the Taxes to be assessed by the former Act are also hereby required for the future to be laid), to assess, rate, tax, and charge, all and every the respective Owner or Owners, Occupier or Occupiers, of all and singular the said Fen Lands, bounded and described as in the said former Act, which lie on the South Side of Popham's Eau, by an equal and proportionable Acre Tax, with such further Sum or Sums of Money as the said Commissioners, or any Seven or more of them, shall think proper, not exceeding the Sum of One Shilling per Acre in any One Year, over and above the Sum of One Shilling per Acre wherewith the said Fen Lands are liable to be charged by the former Act; which said Sum and Sums of Money, to be raised by virtue of this Act, shall be paid, collected, levied, and applied, in the same Manner as the said Acre Tax of One Shilling per Acre by the said former Act is directed to be paid, collected, levied, and applied.

A Tax to be laid by the Commissioners appointed by the former Act,

not exceeding 1 s. *per* Acre.

Provided always, That where there is a Lease of Three or more Years to come from the Commencement of this Act, and any Dispute thereon shall arise between Landlord and Tenant, concerning the Payment of the

Commissioners to determine Differences between Landlords and Tenants.

Tax hereby imposed, the Proportion of the Rates and Taxes hereby charged, which the Tenant ought to bear and pay in consideration of the Benefit he will receive thereby, shall be finally settled and determined by any Seven or more of the Commissioners for putting this Act in Execution, except in such Leases where there is an Agreement to the Contrary.

Upon Non-payment of Tax,

And whereas great Trouble and Inconvenience has arisen, and must arise, in so large a District, to the Collectors or Receivers of the said Taxes from the Mode of recovering the same, as prescribed by the former Act, wherein a Demand, besides publick Notice, of the Time of Payment is made necessary before the said Rate or Tax can be levied; for the avoiding whereof, be it enacted by the Authority aforesaid, That, from and after the passing of this Act, if any Person or Persons rated, taxed, or assessed, as aforesaid, with the Payment of either of the said Rates or Taxes of One Shilling per Acre, or any lesser Sum, under the former or this present Act, shall refuse or neglect to pay the said Tax or Assessment charged upon him, her, or them, respectively, by this Act, or by the said former Act, for or on account of their several Lands and Grounds, lying within the Limits aforesaid, at the Place of Abode of the Collector or Collectors thereof, upon a Day to be appointed by the said Commissioners, or any Five or more of them, for such Payment, publick Notice of such Day and Place of Payment, One Month before such Day of Payment, being first given in The Cambridge Chronicle and Journal, for that Purpose, so long as the same shall continue to be published, or any other weekly Paper or Journal, published in either of the Counties of Cambridge, Norfolk, or Suffolk; and also affixed upon the several Church or Chapel Doors of Upwell, Outwell, Denver, and Welney aforesaid, respectively; which Notice so to be given in such Paper, and inserted therein for Three Weeks successively, and affixed upon such Church or Chapel Door, as aforesaid, on Three Lord's Days successively, shall be deemed and taken as publick Notice, and as if Demand thereof had been actually made by the said Receiver or Collector of the Person or Persons by whom such Rate or Tax is to be paid as aforesaid;

and Notice given,

and if such Rates or Taxes shall continue unpaid by the Space of Twenty-one Days after such Day of Payment appointed, and so notified as aforesaid, it shall and may be lawful for such Collector or Collectors, or for any other Person or Persons authorised, as in the former Act is appointed, to levy the same by Distress and Sale, as by the said Act is directed to be done. the same to be levied by Distress and Sale.

And be it further enacted, That where such Rates or Taxes, laid by virtue of the former or this present Act, shall not be levied or paid to such Collector or Collectors on or before the First Wednesday in December in any Year, the Person or Persons standing charged with the said Taxes shall forfeit and pay the Sum of One Penny for every Shilling which shall be so in Arrear and unpaid; to be levied by Distress and Sale of his, her, and their Goods and Chattels, in such Manner as the aforesaid Rates and Taxes are by the former Act directed to be levied; and the Money so forfeited and levied, shall be applied towards the Works of the District where the same shall be forfeited. Penalty on Nonpayment.

Provided always, and it is hereby enacted and declared, That in case any of the said Fen Lands shall at any Time hereafter be untenanted or unoccupied, so that no sufficient Distress can be found for levying the said Rates, Taxes, and Penalties, to be imposed thereon by virtue of the former or this present Act, then the Lands chargeable therewith shall always remain a Security for Payment thereof; and all Goods and Chattels which shall, at any Time thereafter, be found thereon, shall and may be distrained, kept, appraised, and sold, in Manner as in Distresses to be made for Nonpayment of Taxes under the former Act is thereby directed, until all Arrears of the said Rates, Taxes, and Penalties, and the Charges of such Distress, shall be fully paid and satisfied. Land and Stock to remain Security for the Payment of Taxes.

And whereas the Money so to be rated, levied, collected, and gathered, as aforesaid, will not be sufficient to defray the immediate Expences of new-making and repairing such Banks, Cuts, Drains, Dams, Tunnels, Outlets, Engines, and other Works, as will be necessary for the effectual Draining and speedy Improvement of the said Fen Lands; be it further enacted by the Authority aforesaid, Commissioners may borrow Money.

aforesaid, That the said Commissioners, or the major Part of them, (such major Part being not less than Seven), assembled at any publick Meeting to be held as aforesaid, shall and may, and are hereby impowered, from Time to Time, to borrow any Sum or Sums of Money, which they shall think necessary for the new-making, carrying on, repairing, and preserving of the said Works; and, by Writing under their Hands and Seals, without Stamp, to assign over the said yearly Rates and Taxes hereby charged, or to be charged, upon the said Fen Lands, and every or any Part thereof, (the Costs and Charges of the Assignments to be paid out the said Taxes), as a Security for Repayment of such Sum or Sums, with Interest, not exceeding Five Pounds per Centum per Annum, to the Person or Persons who shall advance or lend such Sum or Sums, his, her, or their Trustee or Trustees; which Money so to be borrowed shall, in the First Place, be applied to defray the Expences of obtaining this Act of Parliament, and the Residue thereof shall be applied and disposed of in making such Cuts, Drains, Dams, Banks, Tunnels, and Outlets, and erecting such Works and Engines, as shall be found necessary for draining and improving the said Fen Lands, and to no other Use or Purpose whatsoever.

Application of Money.

And be it further enacted and declared, That the Rates, Taxes, and Sums of Money, assessed and to be assessed by virtue of this and the former Act, upon the said Fen Lands, shall be charged and chargeable, in the first Place, with the Payment of the Principal Money borrowed, and to be borrowed, as aforesaid, and the Interest of such Money from Time to Time; and shall vest in the respective Creditors, upon Default of Payment of such Principal and Interest, until the same be fully satisfied and paid, together with the Costs and Charges occasioned by the Nonpayment thereof; and the said Creditors, their Executors, Administrators, and Assigns, respectively, shall have the same Power, Rights, and Privileges, for raising and recovering the several Taxes and Sums of Money payable by the several Owners and Occupiers of the said Fen Lands, for and in respect of such Principal Money and Interest, in case of Default

Taxes chargeable with Payment of Money borrowed.

of Payment thereof, as the said Commissioners or their Collectors could have had, in case the said Principal and Interest had been regularly and fully satisfied and paid.

Assignments may be transferred.

And be it further enacted, That every Person, to whom any Assignment of the said Rates and Taxes shall be made, for securing any such Sum or Sums of Money lent as aforesaid, or to whom any Assignment of the Rates and Taxes assessed by virtue of the said former Act shall have been made, or who shall be intitled to the Money thereby secured, shall have full Power, from Time to Time, by Indorsement on the original Grant or Security, without Stamps, to assign or transfer the same to any Person or Persons whomsoever; and such Transfer or Assignment, from and after the Time that the same is entered in a Book, to be kept by the said Commissioners for that Purpose, (which Entry their Clerk or Treasurer is hereby required to make, upon producing such Assignment and Payment of One Shilling for the said Entry), shall intitle such Assignee or Assignees, his, her, or their Executors, Administrators, or Assigns, to the said Principal Sum, and all the Interest due or to grow due thereupon; and such Assignee or Assignees may, in like Manner, assign again, and so toties quoties, as Occasion shall require, every such Assignment being entered as aforesaid.

Transfers to be entered in Books.

Clause to compel Owners to scour Dikes, &c.

And whereas the Clause in the former Act, for obliging the Owner or Occupier of the said Fen Lands to rode, scour, cleanse, open, and repair, their Dikes and Tunnels leading to the Mill Drains for carrying off the Water, or to make proper Tunnels where necessary for that Purpose, upon Twenty-one Days Notice given to him, her, or them, by the Collector or Collectors, Receiver or Receivers, appointed by virtue of the said Act, has been found insufficient for the Purposes thereof, for want of a Penalty to enforce the same; be it enacted by the Authority aforesaid, That from and after the passing of this Act, every Person, so neglecting to do the same within Twenty-one Days after such Notice as aforesaid, shall, for every such Neglect, forfeit and pay the Sum of Three-pence for every Rod of such Dike so neglected to

Penalty on Neglect.

be scoured, cleansed, opened, and repaired, One Penny for every Rod of such Dike so neglected to be roded, and Ten Shillings for every Tunnel so neglected to be made, opened, or continued, as aforesaid; and the said Commissioners, or any Five or more of them, are hereby impowered and required, by Warrant under their Hands and Seals, to cause the said Penalties to be levied by Distress and Sale of the Goods and Chattels of the Person neglecting to do the same; such Penalties to be applied to the Works of the District where such Offence shall be committed, over and above the Costs and Expences of doing such Work or Works, (if done by the Officer in pursuance of the said former Act).

Persons making Watering-places in Mill Drains,

And it is hereby further enacted, That if any Person or Persons shall at any Time make, or cause to be made, any Watering-places, or Place of Access for Cattle to drink, in any of the Mill Drains, or other Drains made or maintained by virtue of this Act; or shall continue to use any such Watering-place already made, after Ten Days Notice in Writing to the Contrary thereof given to him, her, or them, by any Two or more of the said Commissioners; or if any Person or Persons shall drive, or cause to be driven, any Waggon, Cart, or other Carriage, upon any Bank which shall be made or maintained by virtue of this Act, unless such Bank be upon a common Drove-way, and a sufficient Passage shall not be left by the Side of the said Bank; every Person or Persons so offending, being thereof convicted before One Justice of the Peace, on the Oath of One or more credible Witness or Witnesses, or on the Confession of the Party offending, shall forfeit, for every such Offence, the Sum of Forty Shillings to the said Commissioners, to be applied as aforesaid, and to be levied by Distress and Sale of the Goods and Chattels of every such Offender or Offenders, by Warrant under the Hand and Seal of the said Justice before whom such Conviction shall be made.

or drawing Carriages on the Banks,

shall forfeit 40 s.

Persons erecting Buildings, or planting Trees near any Mill to forfeit,

And, in order that the Mills or Engines erected or employed, or to be erected or employed, by virtue of this or the former Act, may the better answer the Purposes for which they are intended, be it further enacted, That, from

from and after the passing of this Act, no House or Building shall be erected, or Trees or Holts planted, or Stacks of Hay, Fodder, or Turf, or other Obstructions set, within Two hundred Yards of any Mill or Engine already erected or employed, or hereafter to be erected or employed, for draining the said Fen Lands: And if any Person or Persons shall build or erect any House or other Building, or shall plant any Tree or Holt, within any less Distance than Two hundred Yards of any such Mill or Engine, every such Person shall forfeit and pay, for every such House or Building, the Sum of Forty Pounds; and for every Tree the Sum of One Shilling; and for every Holt, or other Obstruction, the Sum of Five Pounds; to be levied by Distress and Sale of the Goods and Chattels of every such Offender or Offenders, by Warrant under the Hand and Seal or Hands and Seals of any One or more Justice or Justices of the Peace before whom Conviction of any such Offence or Offences shall be made: And moreover, that it shall and may be lawful for the said Commissioners, or any Five or more of them, by Warrant under their Hands and Seals, to cause such Trees, Holts, or other Obstructions, to be taken up, and such Buildings to be pulled down; and that it shall and may be lawful for the said Commissioners, or any Five or more of them, to cause any Trees or Holts which shall be growing within the Distance of Two hundred Yards from any Mill erected under the Powers given to the said Commissioners by the said former Act, or which shall hereafter be erected by virtue of this present Act, to be cut down, making such Satisfaction to the Owner of such Trees or Holts as shall be agreed upon between such Owner and the said Commissioners, or any Five or more of them, or as shall, in case of any Difference, be ascertained by the Justices of the Peace within Six Months after cutting down such Trees or Holts, at any Quarter-session to be held within that Time for the County, Liberty, or Jurisdiction, where such Trees or Holts shall be so cut down; which Satisfaction the said Justices in Quarter-sessions have hereby given them full Power and Authority to ascertain, on Application made to them, by Request, in Writing, either

for every House or Building 40 *l.*; for every Tree, 1*s.*; for every Holt, 5 *l.*

ther of the said Commissioners, or the Owner or Owners so differing, Seven Days Notice, in Writing, being given, by the Party so requesting to the Party with whom he so differs, previous to the Quarter-sessions, of his intended Request to the said Justices in Quarter-sessions.

Commissioners may make Allowance for catching Vermin.

And be it further enacted by the Authority aforesaid, That the said Commissioners, or any Five or more of them, may, and they are hereby impowered, out of the Monies arising in or upon Account of the said Fen Lands, to make such Allowance for the catching and destroying of Moles and other Vermin in the Banks and Lands belonging to and lying within the said District, as the said Commissioners, or any Five or more of them, shall think proper.

Qualification of Commissioners.

And whereas by the said former Act it is provided and enacted, That no Person or Persons, to be chosen as therein directed, shall be enabled to meet, sit, or act, as a Commissioner or Commissioners for any of the Purposes of the said Act, or to elect any new Commissioner or Commissioners in the Room of others, or to put any of the Powers or Authorities of the said Act in Execution, unless he or they shall be the real Owner or Owners of Fifty Acres of Land on the South Side of Popham's Eau, in the Parish of Upwell or Denver, or of Eleven Acres of Land on the North Side of Popham's Eau, in the Parish of Outwell or Upwell, except the Lords or Ladies of the Manors of Upwell and Outwell, or their Stewards or Agents respectively for the Time being, and the Rectors of Upwell and Outwell for the Time being: And whereas there are but few Owners of Fifty Acres of the said Fen Lands who reside in or near the Towns of Upwell or Outwell, for want whereof the publick Business is frequently interrupted and delayed, to the great Hinderance of the Draining, and of the carrying on the Works thereof: For the preventing of which, be it further enacted by the Authority aforesaid, That from and after the passing of this Act, every Person who shall be the real Owner of Fifteen Acres of Land on the South Side of Popham's Eau, and chosen as in the former Act is directed, shall be enabled to meet, sit, and act as a Com-

missioner for all the Purposes of this and the former Act; any Thing in the said Act contained to the Contrary in any-wise notwithstanding.

Provided always, and be it further enacted by the Authority aforesaid, That no Order which shall be made by the said Commissioners, or any Five or more of them, at any of their Meetings by virtue of this Act, shall be altered, reversed, annulled, or made void at any subsequent Meeting, except a greater Number of the said Commissioners be present and consenting thereto than were present at the making of such Order, nor unless Notice in Writing be affixed upon the Church Doors of Upwell and Outwell Ten Days previous to such Meeting, in which said Notice the Intent and Design of such Meeting shall be declared; and that every Order for executing the Purposes of this or the said former Act shall be made at a Meeting of the Commissioners, to be held as in the said former Act is appointed or authorised, and not otherwise, except in Cases of the granting Precepts or Warrants for levying Taxes or Penalties, which shall and may be granted and signed by such Commissioners whenever the same shall be necessary and required.

No Order to be revoked, but by a greater Number than made it, nor without Notice.

Provided always, and be it further enacted, That nothing in this or the former Act contained shall be construed to prevent or obstruct William Barnes Gentleman, his Heirs or Assigns, (with the Consent, and under the Direction of the Commissioners for putting this Act in Execution, from maintaining the Bank now made by him along his Lands at Nordelf, against London Load, South, and the Lands of John Glenton, John Wilebore, and the Reverend Doctor Pile, West, (so that it be done without Prejudice to the great Mill Drain leading to Popham's Eau); and if any Person or Persons shall, at any Time or Times hereafter, wilfully or maliciously cut, throw down, or otherwise damage the said Bank, such Offender shall, for every such Offence, forfeit the Sum of One hundred Pounds, to be levied by Distress and Sale, as by the said Act is directed to be done.

Not to prejudice *William Barnes* in maintaining his Banks.

And be it enacted by the Authority aforesaid, That if any Action, Suit, or Information, shall be commenced

Limitation of Actions.

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or prosecuted against any Person or Persons for any Thing done or to be done in pursuance of this Act, or in the Execution of any of the Powers and Authorities hereby given, every such Action, Suit, or Information, shall be commenced or prosecuted within Six Months next after the Fact committed, and not afterwards, and shall be laid or brought in the Court of Pleas of the said Isle of Ely, or in the Counties of Cambridge or Norfolk, where the Cause of Action, Suit, or Information, shall arise, and not elsewhere; and the Defendant or Defendants, in such Action or Suit, shall and may plead the General Issue, Not Guilty, and, if in Replevin, may justify and avow, by virtue of this Act, as Persons acting by the Authority of Commissioners of Sewers are enabled to do, and give this Act, and the Special Matter, in Evidence, without specially pleading the same, (other than as aforesaid), at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act: And if the same shall appear to have been so done, or if such Action or Suit shall be brought after the Time before limited for bringing the same, or shall have been brought in any other County or Place than is hereby directed, then the Jury shall find for the Defendant or Defendants, Avowant or Avowants; or if the Plaintiff or Plaintiffs shall become nonsuit, or forbear Prosecution, or discontinue his, her, or their Suit or Suits, or if any Verdict shall pass against him, her, or them, or Judgement upon a Demurrer or otherwise; then, and in any of the said Cases, the Defendant or Defendants, Avowant or Avowants, shall recover Treble Costs, for which he, she, or they, shall have the like Remedy as where Costs by Law are awarded.

General Issue.

Treble Costs.

Provided always, That no greater or larger Sum of Money than Twenty Shillings in the Whole shall ever be paid or allowed out of the Monies to be raised by virtue of this or the former Act, for the Charges or Expences of any One of the Meetings of the said Commissioners to be holden as aforesaid.

Expences of Meetings not to exceed 20s.

Provided always, and be it further enacted, That all such Rights, Powers, Jurisdictions, and Authorities, shall be saved and reserved unto the Governor, Bailiffs,

Rights of the Conservators of *Bedford Level* saved, as by 15 Car. II.

and

and Commonalty of the Company of Conservators of the Great Level of the Fens called Bedford Level, and their Successors, as are now vested in them by virtue of an Act of Parliament, made in the Fifteenth Year of King Charles the Second, intituled, An Act for settling the Draining of the Great Level of the Fens, called *Bedford Level*, or by any other Act or Statute whatsoever.

And be it further enacted, That this Act shall be deemed, taken, and allowed to be a Publick Act; and all Judges, Justices, and other Persons, are hereby required to take Notice thereof as such, without specially pleading the same. Publick Act.

FINIS.