ANNO DECIMO TERTIO

Georgii III. Regis.

CAP. XLIX.

An Act for more effectually executing an Act, paſſed in the Twenty-ſeventh Year of King *George* the Second, for draining and preſerving the Lands in the *North Level*, Part of *Bedford Level*, ſo far as relates to the Fourth Diſtrict of the ſaid *North Level*.

WHEREAS by an Act of Parliament, made in the Twenty-ſeventh Year of the Reign of his late Majeſty King George the Second, (intituled, An Act for the diſcharging of the Corporation of the Governor, Bailiffs, and Commonalty, of the Company of Conſervators of the Great Level of the Fens, commonly called *Bedford Level*, from a Debt due to the Duke of *Bedford*, and Earl of *Lincoln*; and for enabling the Proprietors of Lands in the *North Level*, Part of the ſaid Great Level, to raiſe Money to diſcharge the Proportion of the ſaid *North Level* in the Debts of the ſaid Corporation; and for aſcertaining and appropriating the Taxes to be laid on the ſaid *North Level*; and for the more effectual draining and Preamble.

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preserving the said *North Level*, and divers Lands adjoining thereto, in the Manor of *Crowland*; the Commissioners therein named, or to be nominated and appointed, in Manner therein mentioned, were authorised and impowered to assess, rate, tax and charge all and every the Owner and Owners, Occupier and Occupiers, of all and singular the Lands and Grounds situate and being within the said Fourth District or Division, (except as in the said Act is excepted,) by and with an equal and proportionable yearly Rate, Tax, or Sum of Money, not exceeding in any One Year, for the first Two Years after the passing of the said Act, the Sum of Two Shillings an Acre, or after the Expiration of the said Term of Two Years, the Sum of One Shilling an Acre, to be applied and disposed of in making Works, Banks, Drains, Mills, and Engines, within the said District, necessary for draining the same, and for the other Purposes therein mentioned: And whereas the said Rates and Taxes have been accordingly applied by the Commissioners acting for the said Fourth District, for and towards the erecting of proper Engines, and making Banks, Drains, and other Works, necessary for the draining of the said District, and in maintaining and keeping the same in Repair: And whereas the said Rates and Taxes, charged on the said Lands and Grounds in the said Fourth District, have not, for several Years last past, been sufficient to defray the yearly Expences of the said District, or to pay the Debts which the said Commissioners have been obliged to contract, on account of the Insufficiency of the said Rates and Taxes: And whereas, in order to pay the Debts so contracted by the said Commissioners, and to carry on the said Works, a further Tax is necessary to be laid on all the Lands in the said District, (except as is before excepted): And whereas such further Rate or Acre Tax cannot be laid, or the said Lands effectually drained and preserved, without the further Aid and Authority of Parliament; may it therefore 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

and by the Authority of the same, That all and singular the said Lands in the said Fourth District, within the said Bounds hereby limited (except as before excepted), shall yearly and every Year, for the Term of Twelve Years next ensuing the passing of this Act, be and the same are hereby rated, charged, and assessed, with a Tax or Sum of One Shilling an Acre for every Acre thereof, over and above the Rates and Taxes to be charged thereon by the said former Act; and that the said Tax or Sum of One Shilling an Acre shall be paid to the Receiver or Receivers for that Purpose appointed by the Commissioners of the said Fourth District, to be nominated and elected by virtue of the said Act of the Twenty-seventh Year of King George the Second, on the Thirtieth Day of June and Thirtieth Day of December, in every Year, during the said Term, by equal Half-yearly Payments, the first Payment thereof to be made on the Thirtieth Day of June next after the passing of this Act. Additional Tax of 1s. per Acre.

And be it further enacted, That the Lands of all and every Person and Persons hereby rated, charged, and assessed, shall be taken, and ascertained according to the Surveys thereof made, and as they are now charged in pursuance and by virtue of the said Act of the Twenty-seventh Year of King George the Second; and that the several and respective Owners and Occupiers of the said Lands and Grounds shall pay the said Taxes hereby assessed according to the said Surveys and Charge. Assessments to be ascertained according to former Surveys.

And it is hereby further enacted and declared by the Authority aforesaid, That the said Commissioners nominated and appointed for the said Fourth District by the said former Act, or to be elected or chosen in pursuance thereof, shall be and are hereby appointed Commissioners for carrying into Execution this present Act, and all the Powers and Authorities hereby given; and that the said Taxes and Sums of Money hereby charged, rated, and assessed, to be paid as aforesaid, be vested in, and applied and disposed of, by the said Commissioners of the said Fourth District, in the First Place, towards the paying and defraying the Charges of passing of this Act, and afterwards in paying and discharging such Debts as have been contracted for and on account of the Commissioners to the former Act to be Commissioners to this Act.

raising and making of the said Works necessary for the draining and preserving of the said Lands; and after the said Debts shall be so paid, as aforesaid, then in raising, supporting, and maintaining such other Works as shall be necessary for the more effectual draining of the said Lands.

Commissioners to take the Oath prescribed by the former Act.

Provided also, and be it enacted, That all and every the said Commissioner or Commissioners, before he or they shall act in the Execution of any of the Powers or Authorities hereby given, shall take the Oath, or, being of the People called Quakers, the solemn Affirmation required and directed to be taken by the said former Act; which Oath or Affirmation any One of the said Commissioners is hereby empowered to administer.

The Duke of *Bedford*'s Devisees may agree for assisting the Commissioners in draining the Fourth District.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Devisees, in Trust, under the Will of the late John Duke of Bedford, and the Survivors and Survivor of them, and the Executors and Administrators of such Survivor, during the Minority of the Duke of Bedford for the Time being, and afterwards to and for the Duke of Bedford, his Heirs and Assigns, upon Application in Writing under the Hands of the Commissioners of the said Fourth District of the said North Level, or the major Part of them, assembled at any Meeting to be held in pursuance of this or the said former Act, to agree, from Time to Time, with the said Commissioners, for such Time, and on such Terms, as the said Devisees, or the Survivors or Survivor of them, and the Executors and Administrators of such Survivor, or the Duke of Bedford, his Heirs or Assigns, shall think proper, and consent to, for assisting the said Commissioners in the better draining of the said Fourth District, or any Part thereof, by any or either of the Mills or Engines standing in the Lordship of Thorney, below the Pointing-doors or Flood-gates in Thorney Dike, in such Manner, and by such Means, as they shall think proper; and also that it shall and may be lawful to and for the said Commissioners to make such Agreement or Agreements, from Time to Time, as aforesaid; and also, after such Agreement or Agreements, as aforesaid, shall be made and entered into, to make One or more Cut or Cuts, and

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lay One or more Tunnel or Tunnels, in and through the East Bank of Gold Dike, adjoining to the said District, as they, or the major Part of them, assembled at any Meeting as aforesaid, shall think requisite and necessary, for the better draining of the said Fourth District, or any Part thereof, by any or either of the said Mills or Engines as shall be agreed on as aforesaid, and to pay the Expences attending the same out of the Rates and Cares, and the Monies to be raised on the said Fourth District, by virtue of this or the said former Act; any Thing contained in this or the said former Act to the Contrary thereof in any wise notwithstanding.

Tenants to pay the additional Tax,

And to the End that the said Rates and Cares hereby charged and assessed may be, from Time to Time, the more easily collected and received, be it further enacted by the Authority aforesaid, That all and every the Tenants and Occupiers of the said Lands charged or assessed by virtue of this Act shall be, and are hereby required and made liable to pay the said Rates and Cares so charged and assessed upon the said Lands in their respective Occupations, and to deduct and retain out of his, her or their Rent, all such Sum or Sums of Money as he, she or they shall respectively pay for such Rates and Cares as aforesaid; and the several and respective Landlords or Owners of the said Lands are hereby required to allow such Deductions or Payments upon the Receipt of the Residue of their Rents; and that every such Tenant or Occupier paying such Cares, shall be acquitted and discharged of and from so much Money as the Tax by him or them so paid as aforesaid shall amount unto, as fully and amply to all Intents and Purposes as if the same had been actually paid to his, her or their Landlord or Landlords.

and may deduct the same out of their Rents.

Provided always, and be it further enacted by the Authority aforesaid, That no Lessee or Tenant of any Lands, charged with the said Rates, Cares or Assessments, who shall hold the same by virtue of or under any Lease from any Bishop, or Collegiate Church or College, or any Ecclesiastical Corporation, Sole or Aggregate, or other Beneficial Lease whatsoever, shall be intitled to deduct the said Rates, Cares or Assessments, charged by virtue of this Act, or any of them, out of the Rent reserved

Lessees to Ecclesiastical Bodies or Persons not intitled to deduct the Rates.

ſerved and made payable by any ſuch Leaſe or Agreement to his, her, or their Landlord or Landlords; but that the ſaid Rates, Taxes, and Aſſeſſments ſhall be charged upon and borne, and paid by the Leſſees or Tenants ſo holding ſuch Lands under ſuch Leaſe as aforeſaid; any Thing herein contained to the Contrary thereof in anywiſe notwithſtanding.

Rates and Taxes may be recovered by Diſtreſs.

And be it further enacted by the Authority aforeſaid, That if any Perſon or Perſons ſhall refuſe or neglect to pay the reſpective Rates, Taxes, or Sums of Money, tared, charged, or aſſeſſed, upon him, her, or them, or the Lands or Grounds in his, her, or their Poſſeſſion or Occupation, by virtue of or under this Act, within Twenty-one Days next after the ſame ſhall become due and payable, and Demand made thereof by the Receiver or Receivers appointed to receive the ſame on the Lands or Grounds charged therewith, or at the Dwelling-houſe of the Tenant or Occupier thereof, it ſhall and may be lawful to and for ſuch Receiver or Receivers, or any other Perſon or Perſons, by virtue of any Warrant or Precept under the Hands and Seals of any Five or more of the ſaid Commiſſioners, (which ſaid Warrant or Precept the ſaid Commiſſioners, or any Five or more of them, are hereby impowered and required from Time to Time to make, as there ſhall be Occaſion,) to enter into and upon the Lands ſo rated and tared as aforeſaid, in the Poſſeſſion of ſuch Perſon or Perſons who ſhall ſo make Default in Payment thereof as aforeſaid, and all Meſſuages and Tenements thereupon ſtanding, or thereunto belonging, and to levy the Sum or Sums of Money by him, her, or them payable for ſuch Rates or Taxes by Diſtreſs and Sale of the Goods and Chattels of ſuch Owner or Owners, Occupier or Occupiers, in ſuch and the like Manner as is directed by the ſaid former Act.

Unoccupied Premiſes to remain liable.

Provided always, and it is hereby enacted and declared, That in caſe any of the ſaid Lands ſhall at any Time hereafter be untenanted or unoccupied, ſo that no ſufficient Diſtreſs can be found for levying the ſaid Rates and Taxes ſo in Arrear as aforeſaid, then the ſaid 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, impounded, kept, appraised, and sold in manner aforesaid, until all Arrears of the said Rates and Taxes, and the Charges of such Distress, shall be fully paid and satisfied.

And forasmuch as the said Rates and Taxes to be assessed and charged as aforesaid will not be sufficient for the immediate discharging and paying off the said Debts contracted by the Commissioners as aforesaid; be it further enacted by the Authority aforesaid, That the said Commissioners of the said Fourth District, so nominated and appointed as aforesaid, or any Three or more of them, shall and may, and are hereby impowered, from Time to Time, pursuant to an Order to be made for that Purpose, at any of their Meetings to be held by virtue of the said Act of the Twenty-seventh Year of King George the Second, Five of the said Commissioners being present, and consenting thereto, to borrow and take up at Interest such Sum or Sums of Money as they shall think necessary, and by Writing under their Hands and Seals, to mortgage and assign the said Assessments, Rates, and Sums of Money hereby charged and assessed, or any Part thereof, the Costs and Charges of such Assignment to be borne and paid out of the said Taxes, for any such Time or Number of Years, not exceeding the Term of Twelve Years from the passing of this Act, and in such Manner and Form as the said Commissioners, or any Three or more of them, shall seem meet, as a Security for any such Sum or Sums of Money to such Person or Persons, his, hers, or their Executors or Trustees, with Interest for the same, not exceeding Five Pounds per Centum per Annum; and that Copies of all such Mortgages and Assignments shall be entered in a Book or Books to be kept for that Purpose by the Clerk or Clerks to the said Commissioners; and that it shall and may be lawful for all and every Person and Persons to whom any such Mortgage or Assignment shall be made as aforesaid, or who shall be intitled to the Money thereby secured, by Indorsement on his, her, or their Security or Securities, or otherwise, to assign or transfer his, her, or their Mortgage and Security, and Right

Commissioners impowered to borrow Money

and may mortgage the Rates as a Security.

Copies of Mortgages to be entered in a Book,

and may be transferred.

to the principal Money and Interest thereby secured; and that such Assignment or Transfer shall be produced and notified to the Clerk or Clerks within Three Calendar Months after the Date thereof; and that the said Clerk or Clerks shall cause an Entry or Memorial thereof to be made, containing the Date of such Assignment or Transfer, Names of the Parties thereto, and the Sum or Sums of Money therein mentioned to be assigned or transferred, in the said Book or Books to be kept for entering the said original Mortgages and Assignments, for which he or they shall be paid the Sum of Two Shillings and Sixpence, and no more; and that, after such Entry made, such Assignment or Transfer shall intitle the Assignee or Assignees to the Benefit thereof and Payment thereon; and that every such Assignee or Assignees shall and may, in like Manner, from Time to Time, assign or transfer; and all and every Person and Persons to whom such Mortgage, Transfer, or Assignment, shall be made as aforesaid, shall be, in proportion to the Sum or Sums therein mentioned, Creditors on the said Assessments, Rates, and Sums of Money, in equal Degree One with another, and shall have no Preference in respect to the Priority of advancing any such Money; and that the said Money, when borrowed, shall be applied for and towards the paying and defraying the Charges of passing this Act, and for and towards the paying and discharging of all and every of the said Debts so contracted by the said Commissioners as aforesaid, with the Interest thereof, and to or for no other Use, Intent, or Purpose whatsoever.

Creditors deemed equal in Degree.

Rates to be liable to pay the Money so borrowed.

And it is hereby further enacted and declared, That the said Rates, Taxes, and Sums of Money, by virtue hereof assessed upon the said Lands, shall be charged and chargeable with and for the Payment of all and every such Sum and Sums of Money so to be borrowed as aforesaid, and the Interest thereof, and shall vest in the respective Creditors, upon Default of Payment of such principal Money and Interest, until the same shall be fully paid and satisfied, together with the Costs and Charges occasioned by the Nonpayment thereof; and the said Creditors respectively, and their respective Executors, Administrators,

Administrators, and Assigns, shall have the same Rights and Privileges of raising and recovering the Rates, Cares, and Sums of Money, payable by the said Owners or Occupiers of the said Lands, for and in respect of such principal Money and Interest, if Default shall be made in Payment thereof, as the said Commissioners, or their Receiver or Receivers, could have had, in case the said principal Money and Interest had been regularly paid.

This Act not to prejudice the Mortgages on the former Act.

Provided, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to affect, impeach, or lessen, any Right or Priority of Claim, which any Person or Persons, who have advanced Money on the Credit of any former Act, now have upon the said Lands in respect of such Money so advanced; but that the said Lands shall, in the first Place, be liable to the Rates and Cares charged thereon by any former Act, and the Money borrowed thereon; any Thing herein contained to the Contrary notwithstanding.

Writings may be without Stamps.

And it is hereby further enacted by the Authority aforesaid, That no Mortgage, Assignment, Transfer, or other Security for borrowing Money, or Assignment of such Mortgage or Security, or any Contract, Warrant, Judgement, or other Writing, in pursuance of or relating to the Execution of this Act, shall be charged with any Stamp-duty whatsoever.

Commissioners to appoint Clerks, &c.

And be it further enacted by the Authority aforesaid, That the said Commissioners, or any Seven or more of them, shall and may, and they are hereby impowered to appoint One or more Clerk or Clerks, Receiver or Receivers of the said Assessments, Cares, Rates, and Sums of Money, with such reasonable Salaries as they shall think proper; and shall and may, from Time to Time, remove any such Clerks or Receivers, and appoint others in the Room of such of them as shall be so removed, or shall die; and that every Receiver so to be appointed as aforesaid, before he shall act in the Execution of his Office, shall give such Security to the said Commissioners for the due Execution thereof as the said

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Commissioners, or any Seven or more, shall think proper; and that all and every such Receiver or Receivers shall account and produce to the said Commissioners his or their Vouchers for all such Sum or Sums of Money as he or they shall receive or pay, by virtue of his or their said Office or Offices, at their First Meeting next after the First Monday in July in every Year, and shall pay over the Balance of such Accounts remaining in their Hands, if any such there be, unto the said Commissioners there assembled, or as they, or the major Part of them, shall direct and appoint.

Receivers to give Security, and to account;

Provided, and it is hereby further enacted by the Authority aforesaid, That if any such Receiver or Receivers shall neglect or refuse to account for any Sum or Sums of Money by him or them received in pursuance of this Act to the said Commissioners, at their said First Meeting next after the First Monday in July in every Year, and to pay over the Balance remaining in his or their Hands to the said Commissioners there assembled, or as they shall appoint; then, and in either of the said Cases, it shall and may be lawful to and for Two or more Justices of the Peace of or for the Isle of Ely, not interested, to enquire of and concerning such Neglect or Refusal; and if any such Receiver or Receivers shall be convicted thereof, upon the Oath of One or more credible Witness or Witnesses, then the said Justices shall, upon such Conviction, commit such Receiver or Receivers to the Common Gaol of the said Isle, there to remain until he or they shall have made a full, true, and perfect Account, and Payment, as aforesaid.

On Refusal or Neglect to account, may be committed by a Justice.

And, to the End that it may appear clearly what is raised from Time to Time by virtue of the said Assessments or Rates, and how the same have been applied, and that all Accounts relating to the Monies raised and disbursed by virtue of this Act may be fairly examined; be it further enacted by the Authority aforesaid, That the said Commissioners shall order and cause a Book of Assessments to be made and kept, and all the Rates and Assessments made as aforesaid under this Act to be fairly entered

Rates to be entered in Books,

entered therein; and alſo a Book or Accounts to be made and kept, and an Account of all the Receipts and Diſburſements relating to all Monies received and diſburſed by virtue of this Act, to be fairly entered in the ſame; and that no Accounts ſhall be paſſed and allowed, unleſs the ſame ſhall be kept and drawn up in ſuch Books as aforeſaid; and that Once in every Year, to wit, at their ſaid firſt Meeting next after the firſt Monday in July, they the ſaid Commiſſioners, aſſembled at ſuch Meeting, ſhall carefully inſpect and examine the Receipts and Diſburſements of all ſuch Monies as ſhall be received and diſburſed by virtue of this Act to the Twenty-fourth Day of June next before ſuch Meeting, and all Vouchers relating thereto; and that upon Inſpection and Examination of the ſaid Accounts, upon Oath, to be adminiſtered by any One or more of the ſaid Commiſſioners, which Oath any One or more of the ſaid Commiſſioners is and are hereby impowered to adminiſter, the ſaid Commiſſioners are hereby impowered and directed to allow and paſs the ſaid Accounts, or ſuch Part or Parts thereof as ſhall appear to them juſt and reaſonable; and the ſaid Accounts, or ſuch Part or Parts thereof as ſhall be ſo allowed by the ſaid Commiſſioners, under their Hands, ſhall be fairly entered in a Book or Books, to be kept for that Purpoſe by the ſaid Commiſſioners; which ſaid Book or Books ſhall and may be inſpected and peruſed at all reaſonable Times, by any Owner or Owners of the ſaid Lands, or any Parts thereof. and Accounts of Receipts and Diſburſements.

And be it further enacted by the Authority aforeſaid, That all Orders and Proceedings of the ſaid Commiſſioners, at their ſaid ſeveral Meetings, ſhall be entered in a Book or Books to be kept for that Purpoſe; and ſuch Orders and Proceedings ſo entered ſhall be ſigned by the Commiſſioners then preſent, or the major Part of them; and that ſuch Orders ſo ſigned ſhall be deemed and taken to be original Orders, as fully and effectually as if the ſame were under the Hands and Seals of the ſaid Commiſſioners; and that ſuch Book or Books ſhall and may be inſpected and peruſed at all reaſonable Times by any Owner or Owners of the ſaid Lands, without Fee or Reward, and ſhall and may Proceedings to be entered in Books.

be produced and read in Evidence in all Cases of Suits or Actions, touching any Thing done in pursuance and by the Authority of this Act.

Saving the Rights of the Company of Conservators.

Provided always, and it is hereby further enacted, That this Act, or any Thing herein contained, shall not extend, or be construed to extend, to invalidate, lessen, diminish, alter, or take away, any of the Rights, Powers, or Authorities, vested in the Governor, Bailiffs, or Commonalty, of the Company of Conservators of the Great Level of the Fens, called Bedford Level, or in the said Governor, Bailiffs, and Conservators, by virtue of an Act, made in the Fifteenth year of the Reign of King Charles the Second, (and intituled, An Act for settling the draining of the Great Level of the Fens, called *Bedford Level*), or by virtue of any other Act or Statute whatsoever; but that all Rights, Powers, and Authorities whatsoever, which by virtue of the said Act of the Fifteenth of King Charles the Second, or of any other Act or Statute whatsoever, now are vested in the said Governor, Bailiffs, and Commonalty, or in the said Governor, Bailiffs, and Conservators, or any of them, shall for ever hereafter remain, continue, and be in the said Governor, Bailiffs, and Commonalty, or in the said Governor, Bailiffs, and Conservators, and every of them, as fully and amply, to all Intents and Purposes, as if this Act had never been made.

Not to alter the Powers of the former Act.

Provided also, and be it enacted by the Authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to repeal, alter, or take away, any of the Clauses, Powers, and Authorities, given by the said former Act to the Commissioners acting by virtue and in pursuance thereof; but that every Clause, Power, and Authority, therein contained, shall remain and be in the same Force and Effect as if this Act had never been.

Limitation of Actions.

Provided also, and be it hereby further enacted by the Authority aforesaid, That if any Action, Suit, or Information, shall be commenced 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,

Action, Suit, or Information, shall be commenced or prosecuted within Six Calendar Months next after the Fact committed, and not afterwards, and shall be laid or brought in the said Isle of Ely, or in the County of Cambridge, and not elsewhere; and the Defendant or Defendants in such Action or Suit shall and may plead the General Issue, and if in Replevin justify and avow by virtue of this Act, as Persons acting under and by Authority of Commissioners of Sewers are enabled to do; and shall and may, without specially pleading the same, other than as aforesaid, at any Trial to be had thereupon, give this Act, and the Special Matter, in Evidence, and that the same was done in pursuance and by Authority of this Act; And if the same shall appear to have been so done, or if any such Action or Suit shall be brought after the Time herein-before limited for bringing the same, or shall be brought or laid in any other County or Liberty than in the said County of Cambridge, or in the Liberty of the said Isle of Ely, then the Jury shall find for the Defendant or Defendants, Avowant or Avowants; or if the Plaintiff shall become nonsuit, or forbear Prosecution, or shall discontinue his, her, or their Action or Actions, Suit or Suits; or if any Verdict shall pass, or upon Demurrer or otherwise, Judgement shall be given against the Plaintiff or Plaintiffs; then, and in any of the said Cases, the Defendant or Defendants, Avowant or Avowants, shall recover Treble Costs, and have such and the like Remedies for the same, as where Costs by Law are awarded.

General Issue.

Treble Costs.

And be it further enacted by the Authority aforesaid, 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.