



CHAPTER xi.

An Act for amending the Act relating to the draining and improving of certain Fen Lands within the manors 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 ; and for other purposes.

A.D. 1872.

[13th May 1872.]

WHEREAS in the year 1801, and the 41st year of the reign of King George III., an Act was passed (chapter 34, Local and Personal), intituled “ An Act for more effectually draining and improving certain fen lands within the manors 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 ” (in this Act referred to as the Act of 1801) :

41 G. 3.
c. xxxiv.

And whereas the Act of 1801 made provision for the more effectual draining and improving of certain fen lands within the manors and parishes referred to in the title of that Act (the boundaries whereof were therein particularly described), and appointed and provided for the appointment of Commissioners for putting the Act into execution (in this Act referred to as the Commissioners), and empowered the Commissioners to make new cuts, drains, banks, and other works, and to purchase lands by agreement and otherwise, and to assess and levy acre taxes on owners and occupiers of the fen lands, and to borrow money to an amount therein limited on security of the acre taxes :

And whereas the Act of 1801 (among other things) empowered the Commissioners (section 35) to let for the term and in the manner therein mentioned the herbage and pasturage of the banks, common droveways, and waste places lying within the limits of the Act :

And whereas the Act of 1801 further enacted (among other things) to the effect (section 36) that all encroachments made upon

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A.D. 1872. and inclosures taken from the said banks, common droveways, and waste places, or any part thereof, within two years from the 5th day of April 1801, whereon no house or cottage had been erected or built and was then standing, should be deemed and considered to be part of the said banks, common droveways, and waste places, and that it should be lawful for the Commissioners to throw open such encroachments and inclosures, and all such other encroachments and inclosures which should at any time thereafter be made upon and taken from the said banks, common droveways, and waste places, or any part thereof, and to remove and fill up the hedges, ditches, and fences thereof respectively :

And whereas the Commissioners have proceeded to put the Act of 1801 into execution :

And whereas it is expedient that the Commissioners be empowered to absolutely sell and dispose of such portions of the banks, common droveways, and waste places aforesaid, and of the other lands acquired for the purposes of the Act of 1801, as are not required to be retained for the purposes thereof :

And whereas it is expedient that the Act of 1801 be in various other respects amended and extended :

And whereas the objects 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,)

Short title.

1. This Act may be cited as *The Upwell, Outwell, Denver, and Welney Level Act, 1872.*

Provisions of general Acts herein named incorporated.

2. Sections 128 to 131 (both inclusive) of the *Lands Clauses Consolidation Act, 1845* (relating to superfluous lands), and section 132 of the same Act, and sections 150 and 151 of the same Act, relating to access to the special Act (as far as those sections are applicable for the purposes of and are not varied by or inconsistent with this Act), are hereby incorporated with this Act.

Interpretation of terms.

3. With respect to the interpretation of terms in "*The Lands Clauses Consolidation Act, 1845*," for the purposes of this Act, the following provisions shall have effect ; (namely,)

The expression "*the special Act*" shall be construed to mean the Act of 1801 and this Act read as one Act, or either of them :

The expression "the works" or "the undertaking" shall mean A.D. 1872.
the works or undertaking authorised by the Act of 1801:
The expressions "the promoters of the undertaking" and "the
company" shall mean the Commissioners.

4. The enactments incorporated with this Act shall extend and Extent of
and limita-
tion as to
superfluous
lands.
apply to all such parts of the banks, common droveways, and
waste places lying within the limits of the Act of 1801, including
all encroachments made upon and inclosures taken from the same
at any time since the day in this behalf specified in section 36 of
the Act of 1801, and all such parts of the other lands acquired by
the Commissioners under that Act, as the Commissioners in their
discretion from time to time determine not to be required for the
purposes of that Act, and all parts, encroachments, and inclosures
so determined as aforesaid, and no other lands of the Commissioners,
shall be deemed superfluous lands.

5. Any conveyance of lands to be made by the Commissioners Form of
conveyance.
under this Act may be in the form set forth in the schedule to this
Act, or to the like effect, and any deed in that form or to the like
effect, executed in the manner indicated in the same schedule,
shall be valid and effectual for the purposes therein expressed, and
for the purposes of sections 131 and 132 of The Lands Clauses
Consolidation Act, 1845; and for those purposes the hands and
seals or the hands respectively of any three of the Commissioners,
acting by the authority of the Commissioners, shall be equivalent
to the hands and seals or the hands (as the case may be) of two
directors or managers.

6. On sales of lands by the Commissioners under this Act they Regulations
as to fencing.
may impose such terms as they think fit respecting the fencing
to be put up and maintained by the respective purchasers around
all or any part of the lands purchased by them, and such terms
shall be stated or referred to in the respective conveyances to the
purchasers.

7. All money received by the Commissioners on the sale of any Application
of purchase
money of
lands sold.
lands under this Act shall be deemed capital, and shall be applied
in the order and for the purposes following, and not otherwise;
(namely,)

First. In payment of the costs, charges, and expenses of and
preliminary and incidental to the preparing of and applying
for and the obtaining and passing of this Act:

Secondly. In payment of the costs, charges, and expenses of the
Commissioners attending any such sale:

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Fourthly. In the execution of the Act of 1801 in respect of matters for which capital may properly be expended.

Banks, &c.
to continue
liable to
Middle Level
taxes.

8. The banks, common droveways, waste places, and other lands by this Act authorised to be sold shall continue subject and liable to the drainage taxes authorised to be levied and imposed by the Middle Level Commissioners under or by virtue of the Middle Level Acts or some or one of them, as if this Act had not been passed.

All sales to
be entered in
a book.

9. In case the Commissioners shall sell and dispose of the said banks, common droveways, waste lands, and other lands or any portions thereof under the provisions herein-before contained or referred to, a book shall be kept by the Commissioners or their clerk, with a proper index map thereto, in which shall be entered from time to time a full description of the situation and dimensions of the banks, common droveways, waste places, and lands, or portions thereof, which shall be so sold as aforesaid by the Commissioners, together with the dates of such sales, and the names and addresses of the persons to whom such sales shall be made ; and the Commissioners shall permit such book and map to be inspected by the Middle Level Commissioners or their clerk or other officers at all reasonable times without charge.

Continuance
of power to
let herbage,
&c., with
amendments.

10. Notwithstanding anything in this Act, section 35 of the Act of 1801 shall continue to apply to the letting of the herbage and pasturage of such parts of the banks and common droveways and waste places and other lands lying within the limits of that Act as are not for the time being sold and disposed of by the Commissioners under this Act, and to the incidents and consequences of such letting, subject nevertheless to the following amendments ; (namely,) that the Commissioners may let the herbage and pasturage either by auction or by private contract, and that they may let the same or any part thereof for any term not exceeding seven years at any one time.

Expenses
of Commis-
sioners.

11. Section 9 of the Act of 1801 shall be read and have effect as if the words seven pounds instead of the words fifty shillings had been inserted therein.

Copy of Act
to be depo-
sited with
accounts.

12. Within six months after the passing of this Act a copy thereof as printed by Her Majesty's printers shall be deposited with the book of accounts required by section 10 of the Act of 1801 to be deposited at the parish church of Upwell.

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13. Nothing in this Act contained shall extend or be construed to extend to invalidate, diminish, alter, affect, or vary any of the rights, powers, privileges, or authorities vested in the Middle Level Commissioners under the said Middle Level Acts or any of them, or otherwise howsoever.

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Preserving
rights of
Middle Level
Commis-
sioners.

14. The costs, charges, and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act shall be paid by the Commissioners out of any moneys in their hands under the Act of 1801 or this Act.

Expenses
of Act.

A.D. 1872.

The SCHEDULE to which the foregoing Act refers.

FORM OF CONVEYANCE BY COMMISSIONERS.

THE Commissioners for putting in execution the Act of the forty-first year of the reign of King George the Third (chapter thirty-four, Local and Personal), intituled "An Act for more "effectually," &c. &c., in consideration of the sum of £
paid to them by *A.B.* of _____ and
by virtue and in pursuance of The Upwell, Outwell, Denver, and Welney Level Act, 1872, and by virtue of every estate, interest, and power vested in them or enabling them in this behalf, do hereby grant to the said *A.B.* and his heirs all [*parcels*], together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as the Commissioners are seised or possessed of, or as they are by the said Acts or either of them or otherwise empowered to convey; to hold the premises to the said *A.B.*, his heirs and assigns for ever: Provided always, that this grant shall operate subject to such terms respecting the fencing to be put up and maintained by the said *A.B.*, his heirs and assigns, around all or part of the lands comprised in this grant as are indorsed on this grant. And it is hereby declared that the Commissioners by virtue of the said Acts, or one of them, have imposed and do hereby impose the terms aforesaid.

In witness whereof three of the Commissioners, acting in this behalf by authority of the Commissioners, have hereunto set their respective hands and seals the _____ day of
18 .

[*To be executed by the three Commissioners.*]

[*To be witnessed by the Clerk of the Commissioners.*]