



CHAPTER xxii.

An Act for amending "The Thames Valley Drainage Act, 1871," and for other purposes. [30th June 1874.] A.D. 1874.

WHEREAS an Act was passed in the session of Parliament held in the thirty-fourth and thirty-fifth years of the reign of Her present Majesty, intituled "An Act for the draining of Lands adjoining and near to the River Thames and its tributaries in the counties of Berks, Oxford, Wilts, and Gloucester, and for other purposes," the short title of which Act is, "The Thames Valley Drainage Act, 1871," herein-after called the Act of 1871 : 34 & 35 Vict. c. clviii.

And whereas by the said Act Commissioners were incorporated for the purpose of making and maintaining such works as might be found necessary for the drainage of lands within their jurisdiction, and for that purpose were directed, within twelve months of the passing of the Act of 1871, or within such extended time as should be allowed by order of the Inclosure Commissioners, to make their first order as provided by the said Act :

And whereas the time for making such first order has been extended by order of the Inclosure Commissioners, but it has been found impossible to make such first order within such extended time, and it is desirable and expedient that the time for making such first order should be still further extended :

And whereas certain lands in the parish of Wood Eaton, in the county of Oxford, and certain other lands in a detached portion of the parish of Wootton, in the county of Berks, are periodically subject to floods, and the drainage thereof will or may be benefited by the works which the said Commissioners have power to execute under the provisions of the Act of 1871, but the said parish and detached portion of a parish were inadvertently omitted from the schedule to the said Act, and it is expedient that they should be brought within the operation thereof :

And whereas it is expedient that the provisions of the said Act should be in other respects amended, but the purposes aforesaid cannot be effected without the authority of Parliament :

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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 for all purposes be cited as "The Thames Valley Drainage Act, 1874."

Interpretation of terms.

2. The several words and expressions in this Act shall have the same meaning as words and expressions in the Act of 1871, unless excluded by the subject or context.

Power to extend time for making first order.

3. It shall be lawful for the Inclosure Commissioners by order or orders from time to time to extend the time within which the first order of the Commissioners declaring the limits of their jurisdiction, and within which any order of the Commissioners dividing into districts the lands comprised within such limits, shall be made, and such first order or other order or orders of the Commissioners, if made within the extended time allowed by any such order or orders of the Inclosure Commissioners, shall be deemed to be as valid and effectual for all purposes whatsoever as if the same had been made within twelve months of the passing of the Act of 1871, or prior to the 24th day of July 1874, being the time to which the power of making such order or orders was extended by the order of the Inclosure Commissioners dated the 26th day of June 1872.

Vacancies among first Commissioners may be filled up.

4. The first Commissioners may from time to time, by order under their seal, appoint any persons to act as Commissioners under the provisions of the Act of 1871, to fill up vacancies which may have occurred or which may hereafter occur among the first Commissioners, whether appointed by the said Act or under the provisions of this Act, by reason of death, resignation, or disqualification of any such first Commissioners; and in case of the vacancy being occasioned by any of the first Commissioners having neglected for the space of six months after his appointment to make and subscribe the declaration required by the Commissioners Clauses Act, 1847, or by reason of any of such first Commissioners having been for six months in succession absent from all meetings of the Thames Valley Drainage Commissioners, or not having acted in the execution of the Act of 1871, then it shall be lawful for the first Commissioners, if they think fit, to re-appoint such person or persons to be a first Commissioner, and all the provisions of the Act of 1871 with regard to the first Commissioners thereby appointed shall apply as fully and effectually to any person appointed to fill such vacancy as aforesaid as if the appointment had been made by the Act of 1871.

5. Notwithstanding anything in the Act of 1871 contained, the provisions of section 16 of the Commissioners Clauses Act, 1847, shall not be applicable to the Thames Valley Drainage Commissioners after the passing of this Act.

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Sect. 16 of
10 & 11 Vict.
c. 14. not to
apply to Com-
missioners.

6. Notwithstanding anything in the Act of 1871 contained, the Commissioners may from time to time, with the consent of the Inclosure Commissioners, by order, declare any of the lands in the parish of Wood Eaton, in the county of Oxford, and in a detached portion of the parish of Wootton, in the county of Berks, surrounded by the parishes of St. Aldate and Iffley, in the county of Oxford, and South Hincksey, in the said county of Berks, to be within their jurisdiction, and the Act of 1871 shall in all respects be read and construed as if the said parishes had been contained in the schedule to the Act of 1871.

Commis-
sioners may
include cer-
tain lands
within their
jurisdic-
tion.

7. The first Commissioners may from time to time make an amended or supplementary estimate or estimates of the costs, charges, and expenses to be incurred by them as set out in section 77 of the Act of 1871, and also of the costs, charges, and expenses of, relative, and incidental to the preparing, applying for, obtaining, and passing of this Act, and of carrying out the powers thereof down to the time of making the first rate in the Act of 1871 mentioned, and shall raise all costs, charges, and expenses which shall have been ascertained up to the time of making such first rate, as well as the amount of such estimated costs, charges, and expenses as aforesaid, so far as the same may not be included in such ascertained costs, charges, and expenses upon the first assessment in the Act of 1871 mentioned and by the said first rate; and such rate shall be payable in the first instance by the owners of the lands included in such first assessment, and all the provisions of the said Act for enforcing payment of rates and for borrowing upon rates, and for meeting any deficiency, shall apply as well to the costs, charges, and expenses hereby authorised to be ascertained and estimated as to the said costs, charges, and expenses set out in section 77 of the Act of 1871.

First Com-
missioners
may make
amended or
supplemen-
tary esti-
mates.

8. The eighty-ninth section of the Act of 1871 is hereby repealed, and in lieu thereof the provisions contained in the three following sections shall take effect, and the Act of 1871 shall be read as if they were contained therein instead of section 89 thereof.

Repeal of
sect. 89 of
Act of 1871.

9. The first rate and any rate levied by the Commissioners or district boards for the purpose of defraying any deficiency which may have arisen in respect of the costs, charges, and expenses intended to be provided for out of the first rate, and of defraying the expenses of any improvement in existing works, or of the

Special
rates to be
levied on
owners.

A.D. 1874. — construction of any new works, shall be deemed to be a special rate, and shall be a tax payable in the first instance by the owners of lands, and all special rates shall be raised on a special assessment, and for this purpose the first assessment shall be deemed to be a special assessment; and in making any special rate the Commissioners or district boards shall state in a separate column of the rate the proportion of such rate in respect of the several lands assessed thereto which in their judgment may be considered as raised or to be raised in respect of capital expenditure or of expenditure in the nature of capital.

General rates leviable on occupiers.

10. Any rate leviable by the Commissioners or district boards (other than special rates) shall be deemed to be a general rate, and shall be a tax payable in the first instance by the occupiers of lands, and shall be raised on a general assessment; provided always, that nothing in this Act contained shall subject or render liable any railway or the works thereof belonging to any railway company, situate wholly or partly within the limits of the Act of 1871 or of this Act, to any rate to be raised or levied under the powers or for the purposes of that Act or of this Act.

Questions as to rates may be referred to Inclosure Commissioners.

11. In case any question should at any time arise, or the Commissioners or district boards should at any time entertain a doubt, as to the right of the Commissioners or district boards respectively to execute or maintain any drainage works or to incur any expenditure under the powers of the Act of 1871 or of this Act, or whether any expenditure incurred or to be incurred by the Commissioners or district boards respectively under the powers of the Act of 1871 or of this Act should be defrayed by and out of a special rate or by and out of a general rate, or as to the amount which should be stated in the separate column of any special rate as the proportion of such rate in respect of the several lands assessed thereto which may properly be considered as raised or to be raised in respect of capital expenditure or of expenditure in the nature of capital, it shall be lawful for the Commissioners or district boards respectively to refer such matter in writing to the Inclosure Commissioners, who shall thereupon, after making such inquiries as they shall think fit, by order in writing give their decision thereupon, and their decision shall be final, and it shall be lawful for the Commissioners or district boards to execute or maintain such drainage works, incur such expenditure, make such assessment, and levy such rate in accordance with such order; and in case any appeal should be made in respect of any such drainage works, expenditure, assessment, or rate, the production of the order under the hands of the Inclosure Commissioners shall be conclusive evidence of the powers of the Commissioners or district boards to execute or maintain such

works and to incur such expenditure, and that any assessment made or rate levied, so far as made or levied in accordance with such order, was rightly made or levied.

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12. The following provisions shall take effect with regard to any assessment made or to be made under the powers of the Act of 1871, notwithstanding anything to the contrary contained in the said Act :

Provisions with regard to assessments.

(1.) It shall not be necessary to serve personally upon or send by registered letter to every person assessed under any such assessment in respect of any interest not situate within the limits of the Act of 1871 a copy of the whole of such assessment, but it shall be sufficient to serve personally upon or send by registered letter to every such person a copy of so much only of such assessment as relates to such person in respect of such interest, together with a notice stating the place at which and the time when a copy of such assessment can be seen or procured by or at the expense of such person.

(2.) It shall not be necessary to annex any plan to any assessment, but any plan or section referred to in, or having reference to any assessment, or any copy of such plan or section duly certified as being a correct copy thereof by the clerk to the Commissioners or district board respectively, shall be admissible in evidence in all legal proceedings.

13. The deposit of any assessment, when duly sealed or signed, and the second publication by advertisement of the notice of the intention to make any rate, shall be deemed to be service of notice of such assessment or rate within the meaning of sec. 113 of the said Act of 1871.

Provision as to notice.

14. Where the Commissioners or district boards respectively require, for the purpose of executing any of the powers by this Act or by the Act of 1871 conferred upon them, to interfere either permanently or temporarily with any of the lands, railways, works, or property of any railway company, then and in every such case all interference with the lands, railways, works, or property of such company shall be made under the superintendence and to the reasonable satisfaction of the engineer for the time being of that company, but in all things at the expense of the Commissioners or district boards, as the case may be, and so as to cause no injury to any such lands, railways, works, or property, or the passage or conduct of traffic over or at any of the railways or stations of any such railway company ; and if any such injury shall arise, then the Commissioners or district boards, as the case may be, shall

Protecting railway companies.

A.D. 1874. — make full compensation to such company in respect of such injury ; and in case of any difference arising as to the mode of executing any of the powers by this Act conferred, involving any such interference as aforesaid, the same shall be determined by a referee to be appointed by the Board of Trade, on the application of either party, at the cost of the Commissioners or district boards, as the case may be.

Application
of moneys
borrowed.

15. Section 108 of the Act of 1871 is hereby repealed, and all moneys from time to time borrowed by the Commissioners or district boards respectively shall be applied to the purposes authorised by the Act of 1871 and this Act, including therein the payment of the costs, charges, and expenses of and incidental to the preparing, applying for, and obtaining the Act of 1871 and this Act: Provided always, that all such moneys shall be applied only to the several purposes to which the respective rates upon the security of which such moneys may have been borrowed would respectively have been applicable.

Saving
security of
existing
mortgages.

16. Nothing in this Act contained shall in any way alter, vary, diminish, or otherwise prejudicially affect the security upon which any person may, before the passing of this Act, have advanced moneys to the Commissioners, but the mortgages or bonds granted by the Commissioners under the powers of the Act of 1871 shall have the same force and effect, and be entitled to the same priority, as any mortgages which may be granted upon the security of the first rate after the passing of this Act.