

MOULTON &c. SALT MARSHES ACT 1873.

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AN ACT

For the Reclamation of Open Salt Marshes in the Parish of
MOULTON and elsewhere in LINCOLNSHIRE.

[ROYAL ASSENT 21ST JULY 1873.]

WHEREAS an Act was passed in the year one thousand seven hundred and ninety-three "for dividing and enclosing the Commonable Salt Marshes Drovers Commons and Waste Lands within the parish of Moulton in the county of Lincoln" and by the said Act after reciting the title of Sir Joseph Banks Baronet to the impropriate tithes of corn yearly arising within a certain district of the said parish and the title of Maurice Johnson Esquire as being seized of the Rectory Impropriate of the parish of Moulton to the tithes of corn yearly arising within the residue of the said parish and to certain moduses or customary payments in lieu of tithes within the said parish and the title of the Reverend Maurice Johnson Clerk as vicar of the vicarage of the said parish and parish church of Moulton aforesaid to certain tithes in kind arising within the said parish and to certain moduses or customary payments in lieu of tithes within the said parish provision was made for the setting out of certain specific portions of the said commonable Salt Marshes Drovers Commons and Waste Lands as allotments to be divided between the said Sir Joseph Banks Baronet his heirs and

Preamble recites—
Moulton Enclosure
Act 33 Geo. III.
1793.

assigns the said Maurice Johnson his heirs and assigns and the said Maurice Johnson and his successors vicars as aforesaid in certain proportionate shares which shares should be had and taken by them respectively in lieu of all tithes both great and small moduses and compositions in respect of the said commonable Salt Marshes 5 Drove Commons and Waste Lands and in pursuance of the said Act the Commissioners therein named duly made their award bearing date the ninth day of November one thousand eight hundred and three :

Embankment Act
33 Geo. III. cap.
116.

And whereas by another Act passed in the said year 1793 10 entitled "An Act for embanking and draining certain Salt Marshes " and Low Lands within the several parishes of Spalding Moulton " Whaplode Holbeach and Gedney in the county of Lincoln and " for preventing the same Marshes and Lands from being over- " flowed with the sea and for altering an Act passed in the 31st 15 " year of the reign of his present Majesty intituled an Act for " dividing and enclosing the Commons Marshes Drove Waste " Lands and grounds in the parish of Gedney and hamlet thereof " called Gedney Fen in the county of Lincoln " provision was made for the embankment and drainage of (amongst other commonable 20 Salt Marshes) the commonable Salt Marshes comprised within the operation of the said recited Act and it was provided that all such future accretions of Salt Marsh fronting the commonable Salt Marshes in the parish of Moulton meaning thereby the said commonable Salt Marshes comprised within the operation of the said 25 recited Act (except so much as would become the property of the Earl of Buckinghamshire as by the now reciting Act provided for) should be and were thereby vested in the several persons entitled to rights or interests in the several commonable Salt Marshes therein directed to be embanked in such and the same proportions and 30 interests which such persons then respectively had or enjoyed in the said commonable Salt Marshes therein directed to be embanked :

And whereas by virtue of the said secondly recited Act the Salt Marshes forming the subject-matter of the said Act were 35 embanked and among other works of the Commissioners under the same Act a Sea Bank was erected part whereof extends from the

Fosdyke Bridge Road to the Holbeach and Whaplode Sluice into the Holbeach Whaplode and Moulton Outfall Creek :

And whereas since the said Sea Bank was erected the Trustees of the River Welland have made a new Channel and Outfall for the 5 said river whereby the waters of the River Welland which theretofore flowed in a variable channel between the banks of the Estuary or Wash are now confined within a narrower channel and the space between the said channel and the said Sea Bank has become silted up and consists of open Salt Marshes comprising about six hundred 10 acres which would if reclaimed and drained be capable of cultivation and it is expedient that provisions should be made to that end :

And whereas the Right Honourable Lord Boston is or claims to be owner in severalty of part of the said open Salt Marshes and 15 Richard Jackson and Edgar Walter Garland are or claim to be owners in severalty of certain open Salt Marshes adjoining or near thereto :

And whereas the boundaries of the portions of the open Salt Marshes which belong or are claimed to belong to Lord Boston and 20 to the said Richard Jackson and Edgar Walter Garland respectively are not accurately defined and the boundaries of the several parishes of Moulton Holbeach and Fosdyke in the said Salt Marshes are also not accurately defined :

And whereas the Reverend John Russell Jackson clerk is the 25 vicar of the vicarage of the said parish and parish church of Moulton aforesaid and as such is entitled to receive and take whatsoever tithes and moduses or customary payments in lieu of tithes in respect of the said open Salt Marshes are of right due and payable to the vicar of the said parish for the time being :

30 And whereas the lords of the several manors of Spalding with its members Moulton Harrington and Moulton Fitzwalter and of the several moieties of the manor of Moulton Dominorum and the impropiators and owners of tithes in the parish of Moulton claim to have an interest in the said open Salt Marshes and Mary Bett

William Bett the representatives of Charles Bonner deceased and Charles Foster Bonner the representatives of Samuel Faulkner deceased Frederick Lyon Hopkins William Garfit and Thomas Garfit being or claiming to be or to have been the owners of certain frontage lands in the parish of Fosdyke on the left bank of the River Welland also claim to be entitled to part of the said open Salt Marshes and also claim to be entitled to other rights over the same Salt Marshes and the owners of the several common rights allowed by the Commissioners acting in execution of the hereinbefore first recited Act also claim to be entitled to the whole or to the residue as the case may be of the said open Salt Marshes and it is expedient that the rights of the several claimants and the boundaries of the said several parishes should be ascertained and that the lands hereinafter described should be embanked drained and allotted and that the other provisions hereinafter contained should be made with relation thereto:

And whereas 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 (that is to say):

Name of Act.

1. This Act may be cited as the "Moulton &c. Salt Marshes Act 1873."

Limits of Act.

2. The open Salt Marshes over which the powers of this Act extend are:—

(1) The open Salt Marsh including the portion thereof belonging or claimed to belong to the Right Honourable Lord Boston bounded on the west by the artificial channel of the river Welland on the east by the present Sea Bank

on the north by the open Salt Marsh belonging or claimed to belong to Richard Jackson (No. 2) and on the south by the public highway leading from Holbeach to Fosdyke Bridge;

(2) The said open Salt Marsh belonging or claimed to belong to Richard Jackson bounded on the west by the artificial channel of the River Welland on the south by the open Salt Marsh (No. 1) hereinbefore described on the east and south-east by the old Sea Bank and bounded on the north by the Holbeach Whaplode and Moulton Outfall Creek and by the open Salt Marsh belonging or claimed to belong to Edgar Walter Garland esquire (No. 3) or by one of them;

(3) An open Salt Marsh belonging or claimed to belong to Edgar Walter Garland esquire bounded on the west partly by the artificial channel of the River Welland and partly by the open estuary of the Welland on the east by the old Sea Bank on the south by the said Outfall Creek and the open Salt Marsh belonging or claimed to belong to the said Richard Jackson or by one of them and on the north by the open Salt Marsh belonging or claimed to belong to the trustees of the late John Reckerby;

The said Salt Marshes are in the several parishes of Moulton Fosdyke and Holbeach some or one of them in the parts of Holland in Lincolnshire:

But such limits are nevertheless with respect to so much of the said open marshes as belongs or is claimed to belong to the said Richard Jackson and Edgar Walter Garland subject to the option hereinafter reserved on their behalf.

3. Edward Millington of Fleet in Lincolnshire civil engineer is hereby appointed the Commissioner for the purposes of this Act and he shall remain in office until he shall have made the award hereinafter mentioned or until he dies resigns or becomes incapable of acting.

Appointment of
Commissioner.

As to vacancies in
office of Commis-
sioner.

4. If the said Commissioner or any successor of the Commissioner dies resigns or becomes incapable of acting before the award shall be made it shall be lawful for any three of the owners of common rights in the parish of Moulton or for any of the persons hereinbefore named by writing under their hands to require the Enclosure Commissioners for England and Wales to appoint another Commissioner in his stead and the said Enclosure Commissioners shall make the said appointment and in every such case the Commissioner so appointed shall have and exercise all the powers vested by this Act in the Commissioner hereinbefore nominated.

Providing for legal
assessor.

5. The Commissioner upon the hearing and determining of any contested claim or objection or any objection to the Report hereinafter mentioned and in ascertaining the boundaries of the said parishes manors and properties and upon awarding any costs as hereinafter mentioned shall be assisted by an assessor appointed by the Enclosure Commissioners for England and Wales who shall be a practising barrister of ten years' standing at the least and the determination of the Commissioner as to all such contested claims and objections to the Report parish boundaries boundaries of manors and properties and costs shall be made pursuant to and in conformity with the decisions of such assessor and it shall be lawful for the said Enclosure Commissioners to make such appointment upon the application of any party interested Provided nevertheless That such assessor shall not interfere further in the execution of this Act than in settling what contested claims or objections to the report shall be allowed or disallowed how the said parish boundaries boundaries of manors and properties shall be determined and what costs (if any) shall be allowed to or paid by any parties.

Functions of
Commissioner as
to works.

6. The Commissioner may and shall execute the following works and may subject to the reservations hereinafter contained enter upon and use the said open Salt Marshes for the purposes thereof:

- (1) He may make the necessary embankments sea walls and defences for reclaiming the said open Salt Marshes

from the sea and may for that purpose unite such banks or defences with any existing banks now bounding the said open Salt Marshes;

- (2) He may sewer and drain the said Marshes and for that purpose make all such cuts water courses channels sluices and other works as may be necessary for conveying the water away from the said Salt Marshes Provided that nothing contained in this Act shall authorise the Commissioner or any other persons to make any cut exceeding the width of eleven feet at the bottom;

- (3) He may set out such roads and ways as he may deem convenient to afford access to the said Marshes and to the various allotments therein and he may connect the said roads with the Fosdyke Bridge Road and with the road adjoining the present Sea Bank and may enter upon and take the necessary lands for that purpose if such land be within the limits of this Act.

7. The Commissioner shall before commencing any works under the authority of this Act give notice in writing under his hand to Lord Boston his heirs and assigns to the owners of the said manors respectively to the owners of the tithes in the parish of Moulton to the said Richard Jackson and the said Edgar Walter Garland and the said Mary Bett William Bett or their respective heirs or assigns the representatives of Charles Bonner deceased and Charles Foster Bonner his heirs or assigns the representatives of Samuel Faulkner deceased and Frederick Lyon Hopkins his heirs or assigns William Garfit and Thomas Garfit respectively that he will upon a day or days to be fixed in the Notice settle the boundary lines of the property of the said Lord Boston and of the said Richard Jackson and Edgar Walter Garland and the boundaries between the several parishes of Moulton Fosdyke and Holbeach in the Salt Marshes and will inquire into and determine any claims of the Lords of the said manors and of the impropiators and owners of tithes in the parish of Moulton in over or with respect to the said marshes and will also inquire into and determine the claims of the owners of common rights and of

As to procedure
for ascertainment
of claims.