



ANNO QUADRAGESIMO SEPTIMO

# GEORGI III. REGIS.

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## Cap. 39.

An Act for Inclosing and Draining certain Lands in  
the Parish of *Martham* in the County of *Norfolk*.  
[25th April 1807.]

**W**HEREAS there are within the Parish of *Martham*, in the County of *Norfolk*, certain Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds: And whereas *Thomas Grove*, Esquire, is Lord of the Manor of *Martham*, in the said County of *Norfolk*: And whereas the said *Thomas Grove*, the Dean of the Cathedral Church of the Holy and Undivided Trinity of *Norwich*; of the Foundation of King *Edward* the Sixth, and the Chapter of the same Church, the Vicar of the Vicarage of *Martham*, and *Edward Mapes*, Esquire, and divers other Persons, are the Owners of the Messuages, Cottages, Lands, Tenements, and Hereditaments, within the said Parish of *Martham*: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, "An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:" And whereas the said Marshes, Commonable Fen Lands, and the greater Part of the said Commons and Waste Grounds, are frequently overflowed with Water, and in their present State and Condition, for want of a sufficient Drainage, yield but little Profit to the Persons interested therein: And whereas it would be advantageous to the Persons interested in the Premises, if the said Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds, were divided and Specific Parts and Shares thereof allotted to the several

Act 41 G. 3.

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Appoint-  
ment of  
Commis-  
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ral Persons interested therein, according to their respective Shares, Rights, and Interests; and if the said Marshes, Commonable Fen Lands, and such Parts of the said Commons and Waste Grounds as are liable to be overflowed with Water, were drained; but as such Division, Allotment, and Drainage, cannot be effected without the 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 by the authority of the same, That *Thomas Glover Ewen*, of the City of *Norwich*, Esquire; *George Cubitt*, of *Catfield*, in the County of *Norfolk*, Esquire; and *Robert Cory*, the Younger, of *Great Yarmouth*, in the said County, Gentleman, and their Successors, to be elected in Manner herein-mentioned, shall be, and they are hereby appointed General Commissioners for dividing and allotting the said Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds, and for carrying this Act into Execution, subject to the Rules, Orders, and Directions herein contained; and also subject to the Powers and Provisions of the said recited Act (except where the same are hereby varied or altered); and that all Acts, Matters, and Things, authorized or necessary to be done and executed by the said General Commissioners, or any other General Commissioner or Commissioners, who shall be appointed as hereinafter-mentioned for the Purposes aforesaid, may be done and executed by any Two of them, and the same shall be as valid and effectual as if done and executed by all the said General Commissioners.

Election of  
New Com-  
missioners.

II. And be it further enacted, That if any of the said General Commissioners shall die, or refuse or become incapable to act in the Execution of the Powers hereby vested in him or them before the Execution of the Award to be made by the said General Commissioners, it shall and may be lawful to and for the remaining or surviving General Commissioner or Commissioners, and he and they is and are hereby required, by Writing under his or their Hand or Hands, from Time to Time, within Thirty Days after such Death, Refusal, or Incapacity of any such General Commissioner shall be known to him or them, to appoint another Person (not interested in the Premises) to be a General Commissioner in the Room of every such General Commissioner so dying, refusing, or becoming incapable to act; and every General Commissioner, so to be appointed as aforesaid, shall, after taking the Oath prescribed in that Behalf, have the like Power and Authority for carrying this Act into Execution, as if he had been originally nominated a General Commissioner in and by this Act.

Notices of  
Meetings.

III. And be it further enacted, That the said General Commissioners shall, and they are hereby required to cause Notice of the Time and Place of their first and every other Meeting, for the Execution of this Act; to be inserted in the *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper, printed and circulated within the said County of *Norfolk*, Eight Days at least before every such Meeting, (Meetings by Adjournment only excepted;) and if at any Meeting appointed to be holden by the said General Commissioners, not more than one of the said General Commissioners shall attend, the Commissioner so attending, may adjourn such Meeting, to such Time and Place, with-  
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in Eight Miles of the said Parish of *Martham*, as he shall think most convenient, and shall cause Notice of such Adjournment to be given to the absent Commissioners.

IV. Provided always, and be it enacted, That all other Notices requisite or necessary to be given by the said General Commissioners, shall be so given by Advertisement in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper, printed and circulated in the said County of *Norfolk*,

Other Notices how to be given.

V. And be it further enacted, That all Encroachments which at any Time within Thirty Years, now last past, have been made upon the said Marshes, Doles, Commonable Fen Lands, Commons and Waste Grounds, hereby directed to be divided and allotted shall be deemed Part thereof, and divided and allotted accordingly, and that no Person in Possession of any Lands, Commons or Waste Grounds, which have been inclosed within the Time aforesaid, shall be entitled to any Allotment in respect thereof, under or by virtue of this Act; and in case any Dispute shall arise, touching any Encroachments or the Extent thereof, such Dispute shall be finally determined by the said General Commissioners.

Respecting Encroachments.

VI. And be it further enacted, That in case any Cottages or other Buildings shall have been erected upon any Part of the said Marshes, Doles, Commonable Fen Lands, Commons and Waste Grounds, or upon any Encroachments which shall have been made thereon, within Thirty Years, now last past, then the said General Commissioners are hereby authorized and empowered, in case they shall think fit, to make Sale and dispose of such Encroachments, whereon such Cottages or other Buildings shall stand, or such other Parts of the said Commons and Waste Grounds, in lieu thereof, as they the said General Commissioners shall think more proper and convenient, (not exceeding the Quantity of such Encroachments respectively,) to the Owners of such Cottages or other Buildings, or any of them respectively, at such Price or Prices as they the said General Commissioners shall deem fair and reasonable; and in and by their Award, to set out and allot the same to such Purchaser or Purchasers, his, her or their Heirs accordingly; and the Monies arising from such Sale or Sales, shall be applied in and towards the Payment of the Expences attending the passing and executing this Act.

Power to sell Encroachments whereon Houses are erected, to the Owners thereof.

VII. And be it further enacted, That in order to shorten the Boundary Fences between the said Parish of *Martham* and the adjoining Parishes, it shall and may be lawful to, and for the said General Commissioners, (with the Consent in Writing, under the Hands of the Lords or Ladies of the Manors, and the Hands of the major Part in Value of the Land Owners in any Parish or Parishes adjoining to the said Parish of *Martham*, and also under the Hand or Hands of the Owner or Owners of any adjoining Lands, upon which such Fence or Fences are intended to be made,) to set out, ascertain and determine the Boundary Fences to be made between the Lands in the said Parish of *Martham* and the Lands lying in such adjoining Parish or Parishes, in such Manner as they shall judge proper, for the Purposes aforesaid; and after such Boundary Fences shall be set out, ascertained

For shortening the Boundary Fences.

and



and determined as aforesaid, the same shall be fenced by such Person or Persons, in such Manner, and at such Time or Times as the said General Commissioners shall order and direct in and by their Award, and shall be for ever thereafter deemed and taken to be the Boundaries between the said Parish of *Martham* and such adjoining Parish or Parishes, any Law, Usage or Custom to the contrary thereof notwithstanding.

Commissioners to settle Disputes.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said Division and Allotments, touching or concerning the Right of the Soil of the said Commonable Fen Lands, Commons and Waste Grounds, or any Part or Parts thereof, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized and required to examine into, hear and determine the same.

Commissioners not to determine Titles.

IX. Provided always, and be it enacted, That nothing herein contained shall extend, or be construed to extend, so as to authorize and empower the said General Commissioners to determine the Title to any Messuages, Lands, Tenements, or Hereditaments whatsoever.

Power to assess Costs.

X. And be it further enacted, That, in case the said General Commissioners, upon the hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act, shall see Cause to award any Costs, it shall and may be lawful to and for the said General Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said General Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and, in case the Person or Persons who shall be liable to pay such Costs and Charges shall neglect or refuse to pay the same on Demand, then, and in such Case, it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whatsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus, (if any), upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale,

Allowing the Parties to try Rights by an Issue at Law.

XI. Provided always, and be it enacted, That, in case any Person or Persons interested, or claiming to be interested, in the said Division and Allotment, shall be dissatisfied with any Determination of the said General Commissioners, touching or concerning any Claim or Claims of the Right to the Soil of the said Commonable Fen Lands, Commons and Waste Grounds, or of any Rights of Common or other Rights



Rights or Interests in, over, or upon the Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds herein directed to be divided, allotted, and inclosed, or any Part thereof, and shall by Writing under his, her, or their Hand or Hands, signify such Dissatisfaction to the said General Commissioners, within Thirty Days next after their Determination shall be made and declared, it shall and may be lawful to and for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said General Commissioners, at the then next, or the following Assizes, to be holden for the said County of *Norfolk*; and, for that Purpose, the Person or Persons who shall be dissatisfied with the Determination of the said General Commissioners shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said General Commissioners; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they, is, and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in the said Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whatsoever, unless the Court, where such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had, which it shall and may be lawful to and for the Court to do, in case the said Court shall think proper; and that, after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said General Commissioners shall, and they are hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, That the Determination of the said General Commissioners, touching such Claim or Claims of Right to the Soil of the said Commonable Fen Lands, Commons, and Waste Grounds, or of any Rights of Common, or other Interests as aforesaid in, over, or upon the Lands and Grounds hereby intended to be divided and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting, not causing such Action at Law to be brought and proceeded in as aforesaid, shall be binding and conclusive upon all Parties.

XII. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened. If any of the Parties die, Proceedings not to abate.

XIII. And be it further enacted, That the said General Commissioners shall, (after they have set out and appointed the Public Carriage Roads and Highways through and over the Lands and Grounds intended to be divided, allotted, and inclosed by virtue of this Act), assign, set out, and allot unto the Lord of the said Manor of *Mertham*, and unto the Vicar, Churchwardens, and Overseers of the Poor of the said Allotment for the Poor.  
[*Loc. & Per.*] Parish



Parish of *Martham*, such Parts of the said Commonable Fen Lands, Commons and Waste Grounds, as in the Judgment of the said General Commissioners shall be equal in Value to One-tenth Part of the Average Value of the said Commons and Waste Grounds; and such Allotment or Allotments shall be, on the Execution of the Award of the said General Commissioners, vested in the Lord of the said Manor, and the Vicar, Churchwardens, and Overseers of the Poor of the said Parish for the Time being for ever, as Trustees for the Poor of the same Parish; and the said Trustees, or the major Part of them are hereby empowered from Time to Time, by any Writing or Writings under their Hands and Seals, to lease or demise any Part or Parts of the said Allotment or Allotments, not exceeding One Moiety thereof, to any Person or Persons whatsoever, for any Term of Years not exceeding Fourteen Years, so that in every such Lease there be reserved and made payable to the Trustees for the Time being, or the major Part of them, by Two equal Half yearly Payments, the most improved yearly Rent or Rents that can be obtained for the same, without taking any Income, Fine, Premium, or Foregift, in consideration of granting such Lease or Leases, and that in all such Leases there be contained the usual Covenants and Stipulations between Lessors and Lessees, and such other Covenants and Stipulations, and such Security for the Performance of the same, as the said Trustees, or the major Part of them shall think proper to be inserted therein; and the Rents and Profits arising from the said Allotments, or Parts of the said Allotments so leased or demised, shall from Time to Time be laid out in purchasing Fuel, and such Fuel shall be distributed among the poor Inhabitants of the said Parish of *Martham*, who shall be legally settled therein, and shall not occupy Lands or Tenements of more than the Yearly Value of Five Pounds, in such Proportions and Quantities, at such Times in every Year, and according to such Rules and Orders as the said Trustees for the Time being, or the major Part of them shall appoint and prescribe for that Purpose; and it shall and may be lawful to and for the said Trustees to retain and keep so much and such Part or Parts as they shall think proper, of the Remainder of such Allotment or Allotments, not so let or demised as aforesaid, for the Purpose of cutting Fuel; and such Fuel shall be distributed in Manner aforesaid, and the Remainder of the said Allotment or Allotments not so leased or demised, or used for the Purpose of cutting Fuel, shall be used and enjoyed solely and exclusively by such Poor Inhabitants of the said Parish, who shall be legally settled and resident therein, and shall not occupy Lands or Tenements of more than the Yearly Value of Five Pounds, as a Common of Pasture in such Manner and at such Time or Times and according to such Rules and Directions as the said Trustees for the Time being, or the major Part of them, shall appoint and prescribe for that Purpose, and not otherwise.

Poors Allotments to be free from Parochial Assessments, except what shall be leased.

XIV. And be it further enacted, That from and immediately after the Execution of the said Award, no poor or parochial Rates, Taxes, or Assessments whatever, shall be paid or payable out of, or for, or in respect of the said Allotment or Allotments hereinbefore directed to be made for the Benefit of the Poor as aforesaid, except the Land so leased or demised as aforesaid.



XV. Provided always, That it shall and may be lawful, to and for the Lord of the said Manor, and the Vicar for the Time being, to act in the Execution of the Trusts hereby reposed in them by their Agents or Proxies respectively, such Agents or Proxies respectively being appointed by Writing or Writings under the Hands of the Lord of the said Manor, and Vicar respectively for the Time being, and producing their respective Appointments at the Time of their acting by virtue thereof.

Lord of the  
Manor, &c.  
to act by  
Proxy.

XVI. And be it further enacted, That the said General Commissioners shall, in the next Place, assign, set out, and allot unto the Surveyors of the Highways, within the said Parish of *Martham*, such Parts of the said Commonable Fen Lands, Commons, and Waste Grounds, hereby directed to be divided and allotted, as the said General Commissioners shall think necessary, not exceeding Four Acres in the Whole, as and for public watering Places for Cattle, and as and for public Sand, Gravel, Clay, and Chalk Pits; and the same Allotments, when set out, shall for ever thereafter be used, by the Surveyors of the Highways, and by the Proprietors of Lands, Tenements, and Hereditaments, within the said Parish, and their Tenants for the Time being, in such Manner, and under such Rules and Regulations as the said General Commissioners shall, by their said Award, direct or appoint.

Allotments  
for Watering  
Places, Gra-  
vel, &c.

XVII. And be it further enacted, That the said General Commissioners shall, in the next Place, assign, set out, and allot unto the Lord of the said Manor of *Martham*, and unto any other Person or Persons being Lord or Lords, Lady or Ladies of any Manor or Manors, within the said Parish of *Martham*, and being Owner or Owners of, or lawfully claiming to be Owner or Owners of, or being intitled to the Soil of the said Commonable Fen Lands, Commons, and Waste Grounds, or any Part thereof, such Part of the said Commonable Fen Lands, Commons, and Waste Grounds, as in the Judgment of the said General Commissioners, shall be equal in Value to One-seventeenth Part of the said Commonable Fen Lands, Commons, and Waste Grounds; and such Allotment or Allotments shall be a full Compensation and Recompense for the Right of such Lord or Lords, Lady or Ladies of such Manors respectively, in and to the Soil of the said Commonable Fen Lands, Commons, and Waste Grounds respectively, or any Part thereof.

Allotment  
for Right of  
Soil.

XVIII. And be it further enacted, That the said General Commissioners shall, in the next Place, assign, set out, and allot the Part of the said Commons and Waste Grounds, called *Martham Green*, unto the Special Commissioners hereinafter appointed, and their Successors, in Trust for the Lord of the said Manor of *Martham*, (according to his Estate and Interest therein immediately previous to the passing of this Act,) his Heirs and Assigns, and in Trust for a Common of Pasture, for all the Proprietors of Hereditaments in the said Parish of *Martham*, who immediately previous to the passing of this Act, had Rights of Common on the Waste Lands in the said Parish, their Heirs and Assigns; and the said General Commissioners are hereby required, in their said Award, to determine the Limits of the said *Green*, and the Means of preserving it for the Purposes aforesaid.

*Martham*  
*Green*.

XIX. And



Allotment of  
Residue.

XIX. And be it further enacted, That the said General Commissioners shall then set out and allot the said Open Fields, Marshes, and Doles, and the Residue and Remainder of the said Commonable Fen Lands, Commons, and Waste Grounds, hereby directed to be divided and allotted, unto and amongst all and every Person and Persons having any Right or Rights of Common, and other Rights or Interests in, over, or upon the same, or any Part or Parts thereof, in such Parts and Shares as the said General Commissioners shall adjudge and determine to be proportionate to the Value of, and a full Satisfaction and Compensation to him, her, and them respectively, for his, her, and their respective Rights of Common, or other Rights or Interests in, over, or upon the said Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds, or any Part or Parts thereof.

In case any  
Person shall  
sell his com-  
mon Right,  
the Allot-  
ment to be  
made to the  
Purchaser.

XX. Provided always, That if any Person hath sold or contracted, or agreed to sell, or shall at any Time before the Execution of the said Award, sell, or contract, or agree to sell his or her Right, Interest, or Property in, over, or upon the said Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds, or any Part thereof, or any Allotment or Allotments in respect thereof, to any other Person, then and in every such Case it shall and may be lawful to and for the said General Commissioners, and they are hereby directed, authorized, and required to make such Allotment or Allotments, or an Allotment of Land, unto the Vendee or Purchaser in such Sale, Contract, or Agreement, or to his or her Heirs or Assigns, for and in respect of such Allotment or Allotments, Right, Interest, and Property so sold or contracted, or agreed to be sold as aforesaid; and every such Vendee or Purchaser, and his and her Heirs and Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her or them as aforesaid, in the same Manner, to all Intents and Purposes, as the Vendor in such Sale, Contract, or Agreement might, could, or ought to have held and enjoyed the same, in case such Sale, Contract, or Agreement had not been made; or such Allotment or Allotments, Right, Interest, or Property had been vested in such Vendor, at the Time of making such Allotment as aforesaid.

Allotments  
Tythe free  
for a certain  
Time.

XXI. And be it further enacted, That the said Doles, Commons and Waste Grounds shall be exempt from all Manner of Tythes, for the Term of Two Years, to be computed from the Time of setting out the Allotments by the said General Commissioners.

No Turf to  
be cut with-  
out Leave of  
General  
Commis-  
sioners.

XXII. And be it further enacted, That if any Person or Persons shall after the passing of this Act, cut, dig, pare, grave, stay or carry away any Whins, Furze, Reed, Rushes, Fodder, Turf or Flags, in, upon or from the said Doles, Commonable Fen Lands, Commons and Waste Grounds, or any Part thereof, without or contrary to the Licence of the said General Commissioners, first had and obtained in Writing for that Purpose, (which Licence the said General Commissioners are hereby empowered to grant under such Rules, Orders, Regulations and Restrictions as they shall think proper to insert therein,) then and in every such Case it shall and may be lawful to and for any Justice of the Peace, for the County of *Norfolk*, upon due Proof there-  
of,



of, made before him on the Oath of any credible Witness or Witnesses (which Oath such Justice is hereby empowered to administer,) to commit every such Offender to the common Gaol or House of Correction for any Time not exceeding Three Calendar Months.

XXIII. And be it further enacted, That it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized, at any Time before the Execution of the said Award; by Writing under their Hands, to be affixed upon the principal Door of the Church of *Martbam* aforesaid, to order and direct all or any Part of the Rights of Common in, over or upon the said Commonable Fen Lands, Commons and Waste Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing, and that all such Rights of Common as the said General Commissioners shall by such Writing, order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Writing on the said Church Door, cease, determine and be extinguished, or the Exercise thereof be suspended accordingly, any Law, Usage or Custom to the contrary notwithstanding.

For extinguishing, or suspending Rights of Common before the Award.

XXIV. And be it further enacted, That from and after the passing of this Act until the Execution of the said Award, all the Open Fields, hereby directed to be divided and allotted, shall be subject and liable to such Directions and Regulations, as the said General Commissioners shall from Time to Time, by Writing under their Hands appoint, as well with regard to the stocking, as to the ploughing, tilling, sowing and laying down the same; and it shall and may be lawful to and for the said General Commissioners, to order and direct such Sum and Sums of Money in respect thereof, to be paid by any Person or Persons interested in the said Open Fields, his, her or their Tenant or Tenants, as they the said General Commissioners shall think reasonable; and in case any Person or Persons who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid, shall neglect or refuse to pay the same on Demand, then and in such Case, it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized and required to raise and levy the same for the Use and Benefit of the Person or Persons intitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied.

Commissioners to direct the Course of Husbandry, over the Open Fields

XXV. Provided always, That convenient Gaps and Openings shall be left in the Fences and Inclosures, to be made in pursuance of this Act, for the Space of Twelve Calendar Months, next after the Execution of the said Award, for the Passage of Cattle, Carts, and Carriages, into and through the same, unless the several Parties interested shall agree that the same shall be sooner fenced in, made up and inclosed.

For leaving Gaps.

XXVI. And be it further enacted, That all the Messuages, Cottages, Lands, and Grounds, which shall be allotted by virtue of this Act, and of the said recited Act, to any Person or Persons for, or in respect

Allotments to be of the same Tenure as Lands for

[*Loc. & Per.*]

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of



which they  
are allotted.

of any Messuages, Cottages, Lands, or Grounds holden of any Manor or Manors by Copy or Court Roll, or for or in respect of any Leasehold Messuages, Cottages, Lands, and Grounds; or for or in respect of any Right of Common, or any other Right or Interest appurtenant or appendant to any such Copyhold or Leasehold Premises, shall, from and after the Execution of the said Award, be deemed and taken to be Copyhold or Leasehold, and shall be held as such by and under the same Tenure, Rents, Payments, Fines, Customs, and Services as the Copyhold or Leasehold Messuages, Cottages, Lands, or Tenements respectively, for or in respect whereof such Allotment shall be made are now holden: Provided always, That all and every Person or Persons to whom Copyhold Messuages, Cottages, Lands, and Premises shall be allotted by virtue of this Act, and the said recited Act, shall, within Six Calendar Months next after the Execution of the said Award, be admitted Tenant or Tenants to the same without paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Steward or Stewards of the said Manor or Manors (save and except for the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the respective Steward or Stewards of the said Manor or Manors as the said General Commissioners shall, by their Award, order and direct); but, in case any Person or Persons to whom such Lands and Premises shall be allotted shall die without Admission within the said Six Calendar Months, then the customary Fines, Fees, and other Payments shall be due and payable on the Admission of the Person or Persons entitled to such Lands and Premises; and, after every such First Admission, the Copyhold Premises so to be allotted as aforesaid shall, at all Times, be held under and subject to the same Tenures, Fines, and other Payments as the present Copyhold Messuages, Cottages, Lands, or Tenements in respect whereof such Lands and Premises shall be allotted, are now holden under and subject to; and the said General Commissioners shall, by their Award, determine, describe, and abut the Messuages, Cottages, Lands, and Grounds respectively, which are to be and remain Copyhold or Leasehold; and all other Messuages, Buildings, Lands, and Grounds to be allotted by virtue of this Act, (except what shall be so ascertained by the said General Commissioners to be Copyhold or Leasehold), shall be thenceforth deemed, taken, and enjoyed as Freehold Messuages, Buildings, Lands, and Grounds, subject nevertheless to such Free Rents and Services, as are now due or payable out of or for the respective Messuages, Lands, Tenements, or Hereditaments, for or in respect whereof the same shall or may be allotted.

Tenants to  
give up Open  
Fields al-  
lotted or ex-  
changed, re-  
ceiving in  
lieu thereof  
what shall be  
exchanged  
therefore  
with such  
Compensa-  
tion as the

XXVII. And be it further enacted, That all Tenants and Occupiers, under Leases or Agreements for any Terms, of any Open Fields within the said Parish of *Martham*, which shall be allotted or exchanged by virtue of this or the said recited Act, shall (immediately after the signing of the Award of the said General Commissioners, or within such further Time as the said General Commissioners shall appoint, and whereof Notice in Writing shall be given for that Purpose,) give and resign up the full and peaceable Possession of such allotted or exchanged Lands to the Person or Persons to or with whom the same shall be respectively allotted or exchanged, such respective Tenants and Occupiers



ers of such allotted or exchanged Lands, receiving the Lands allotted or exchanged therefore in lieu thereof; and such of the said Tenants and Occupiers as, in the Judgment of the said General Commissioners, shall be prejudiced by such Exchange, by reason of the different State of Cultivation of the said Lands, shall receive from the respective Tenants and Occupiers of the Lands given in Exchange therefor, such Satisfaction in Money as the said General Commissioners shall ascertain, or direct, or appoint as an Equivalent for such different State of Cultivation; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons entitled to receive the same within Fourteen Days after Demand made thereof, it shall and may be lawful to and for the said General Commissioners, and they are hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act may be raised and recovered.

General  
Commission-  
ers shall  
direct

XXVIII. And be it further enacted, That all and every Lease and Leases of any Messuages, Lands, or Tenements, within the said Parish of *Martham*, at Rack or extended Rent, shall, as far as such Lease and Leases affect or concern any Allotment or Allotments to be made of any Part of the said Doles, Commonable Fen Lands, Commons, or Waste Grounds in respect of any such Messuages, Lands, or Tenements comprised in such Lease or Leases, be, and the same is and are hereby declared to be null and void as to such Allotment and Allotments, and such Allotment and Allotments shall be made and assigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Lessee or Lessees; and such Allotment and Allotments shall be freed and discharged from all the Right and Interest which may or otherwise might be claimed in or to the same by virtue of such Lease or Leases; and the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, to whom the Messuages, Lands or Tenements comprised in such Lease or Leases shall belong, as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same under such Lease or Leases as the said General Commissioners shall by Writing under their Hands direct for the Right of Common, or any other Rights or Interests in, over, or upon the said Doles, Commonable Fen Lands, Commons, and Waste Grounds, or any Part thereof appendant or appurtenant to such Messuages, Lands or Tenements, and which shall be extinguished by this Act: And if any Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, shall refuse or neglect to make any such Compensation to the Person or Persons entitled thereto, on Demand, then and in such Case it shall and may be lawful to and for the said General Commissioners, and they are hereby authorized and required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied: Provided always, That nothing herein contained shall extend, or be construed to extend, so as to render null and void any Lease or Leases granted by the said Dean and Chapter, or the said Vicar, or any of their Predecessors, of any Lands, Tenements, or Hereditaments, within the said Parish of *Martham*, or any Part or Parts of such Lease or Leases.

Leases void  
as to Allot-  
ments of  
Common-

XXIX. And



Money advanced to be repaid with Interest.

XXIX. And be it further enacted, That if any of the Proprietors or Persons interested in the Open Fields, Marshes, Doles, Commonable Fen Lands, Commons, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any other Person or Persons on his, her, or their Behalf, shall advance and pay any Money in discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said General Commissioners, together with lawful Interest for the same.

For defraying the Charges and Expences of obtaining and executing this Act.

XXX. And be it further enacted, That the Costs, Charges, and Expences of inclosing the Allotments which shall by virtue of this Act be made to the said Vicar in Right of his said Vicarage, and of inclosing the Allotments hereby directed to be made to the Surveyors of the Highways, the Trustees for the Poor of the said Parish of *Martham*, and to the Special Commissioners hereinafter appointed, and all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and of surveying, measuring, planning, valuing, dividing, allotting, draining, and preserving the Lands, Grounds, and Premises to be divided, allotted, drained, and preserved by virtue of this Act, and of preparing and inrolling the Award of the said General Commissioners, and of the Copies thereof, and all the Charges and Expences of the said General Commissioners, their Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said General Commissioners in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, completing, and repairing the Public Carriage Roads and Highways, to be set out and appointed by the said General Commissioners, and all other Expences of carrying this Act into Execution, shall be borne and defrayed by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act, (save and except the said Vicar in respect of any Allotment which shall be made to him in Right of his said Vicarage, and also save and except the Surveyors of the Highways, and the Trustees for the Poor of the said Parish of *Martham*; and the said Special Commissioners for the Time being for or in respect of the Allotments hereby directed to be made to them as aforesaid; and also save and except such Person or Persons whose real Property within the said Parish of *Martham* or elsewhere shall not, in the Judgment of the said General Commissioners, exceed the yearly Value of Five Pounds, or who shall not be possessed of Personal Property to the Amount of One Hundred Pounds at the Time of making the said Allotments,) in such Shares and Proportions, at such Time or Times, and to such Person or Persons, as the said General Commissioners shall appoint.

Exchanges.

XXXI. And be it further enacted, That it shall and may be lawful to and for the said General Commissioners to set out, allot, and award, any Lands, Tenements, or Hereditaments whatsoever, within the said Manor and Parish of *Martham*, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments whatsoever, within the said Manor and Parish, or within any adjoining Parish, Hamlet, or Township, provided that all such Exchanges be ascertained, specified, and declared in the said Award of the said General Commissioners, and be made with  
the



the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments, which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate, or Collegiate, or sole, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail, general or special, or by the Courtesy of *England*; or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffes for charitable Uses, Husbands, Committees, or Attornies of, or acting for any such Proprietors or Owners as aforesaid, who, at the Time of making such Exchange or Exchanges, shall be respectively Infants, Femes Coverts, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself, such Consent to be testified in Writing, under the common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, That no Exchange shall be made of any Lands, Tenements, or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged, shall lie and be situate.

XXXII. Provided always, and be it further enacted, That all the Costs, Charges, and Expences attending the making and completing of any Exchanges and Partitions which shall be made by virtue of this or the said recited Act, shall be paid, borne, and defrayed by the several Persons making such Exchanges and Partitions, in such Manner, and in such Shares and Proportions as the said General Commissioners shall, by their Award, or other separate Deed or Instrument, order and direct.

Expences of Exchanges by whom to be paid.

XXXIII. And be it further enacted, That Once, at least, in every Year, during the Execution of this Act, such Year to be computed from the Day of the passing thereof, the said General Commissioners shall, and they are hereby required, to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their Trouble or Expences in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them laid before any One or more of His Majesty's Justices of the Peace for the County of *Norfolk*, to be by him or them examined and allowed, and the Balance of such Account shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said General Commissioners; and no Charge or Item, in such Accounts, shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices.

General Commissioners to lay Accounts before a Justice of the Peace once in every Year.

XXXIV. And be it further enacted, That the Award to be made by the said General Commissioners, when inrolled in Manner directed by the said recited Act, shall be deposited in a Tin Box, in the Parish Church of *Martham* aforesaid.

Award to be deposited.

[*Loc. & Per.*]

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XXXV. Provided



Proprietors  
and Agents  
to pay their  
own Expences.

XXXV. Provided always, That the said Proprietors, their Attornies, and Agents, shall pay their own Expences; when they, or any of them, shall attend the said General Commissioners at any of their Meetings; to be holden in pursuance of this Act.

Wills or Settlements not  
to be affected.

XXXVI. Provided always, and be it enacted, That nothing in this Act contained, shall extend, or be construed to extend, so as to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons, having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances out of, upon, or affecting any of the Messuages, Buildings, Lands, or Grounds to be divided, allotted, inclosed, or exchanged as aforesaid, or any Part or Parts thereof respectively, but that the respective Persons, to whom any Lands, or Hereditaments shall be allotted, or given in Exchange by virtue of this Act, shall be seised thereof, to such and the same Uses, and for such, and the same Estates, and subject to such, and the same Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Messuages, Buildings, Lands, Grounds, and Hereditaments whereof such Person was seised, or possessed, at, or immediately before the Execution of the said Award, or, for which, or in respect whereof, such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case the said Act had not been made.

Clause for  
Drainage,  
&c.

XXXVII. And be it further enacted, That the said General Commissioners shall, and they are hereby authorized and required by such Agents, Workmen and Labourers, as they shall think fit to employ, to make and erect all such Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges and other Works in, through, over and upon the Open Fields, Marshes, Doles, Commonable Fen Lands, Commons and Waste Grounds, hereby directed to be divided and allotted, or any Part thereof, as they the said General Commissioners shall judge proper and expedient for effectually draining such Parts of the said Lands and Grounds, as in their Opinion shall require to be drained, and to purchase any Mill or Mills, or other Works for that Purpose, and to erect such Houses or Buildings for the Habitation of the Person or Persons who shall have the Care or Superintendance of the said Mills or Works, or any of them, or for depositing Stores or Materials necessary for the making or maintaining of such Mills and Works, as they the said General Commissioners shall think proper, and also to make a Dike or Dikes through any Part of the said Lands and Grounds, to the River adjoining thereto, to be used as a common or public Boat Dike or Dikes, by the Owners and Occupiers of Estates within the said Parish of *Martham* for the Time being, for the Conveyance of Corn, Manure and other Things, to and from the said River; and that the said General Commissioners shall set out and allot unto the Special Commissioners hereinafter appointed, the Drains, Dams, Banks, Mills, Sluices, Engines, Bridges and other Works, Houses, Buildings and Boat Dike or Dikes so to be made and erected or purchased by them, and such Part of the Lands and Grounds to be drained, by virtue of this Act, as they shall think proper, for the maintaining or preserving of the same; and also a Piece or Pieces of Land adjoining to the said Boat Dike or Dikes, to be used as a public Staithe or public Staithes,

by



by the Owners and Occupiers of Estates, within the said Parish of *Martham* for the time being, for the laying and depositing thereon of the Corn, Manure and other Things, which shall be conveyed or shall be intended to be conveyed to or from the said River, by means of the said Boat Dike or Dikes.

XXXVIII. And be it further enacted, That the said General Commissioners shall, at or before the Execution of the said Award, make or cause to be made, such Compensation in Money as they shall think proper, for the Part or Parts of the said Lands, which shall be taken or used for the making or erecting the said Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges and other Works, Houses and Buildings, or any of them, or set out and allotted for Ways and Passages to and from the same, and for repairing or preserving the same to the Proprietor or Proprietors of the Part or Parts of the said Lands and Grounds to be taken, used, set out or allotted for the Purposes abovementioned or any of them, by the several Proprietors interested in such Drainage; and such Money shall and may be levied and recovered as the Costs, Charges and Expences of obtaining and executing this Act may be levied and recovered, and such Money shall, when received by the said General Commissioners, be applied in the Discharge of such Proportion of the Charges and Expences of obtaining and executing this Act, as the Proprietor or Proprietors whose Lands shall have been so taken, used, set out or allotted, shall be subject or liable to pay; and the Overplus, (if any,) shall be by them paid to the Person or Persons intitled to the same: Provided always, That if any Body Politic, Corporate or Collegiate, Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, or any Person acting as Guardian, Committee or Trustee, for or on behalf of any Infant, Lunatic, Idiot, Feme Covert, or other *Cestuique* Trust, or any Person or Persons whose Lands, Tenements or Hereditaments are limited in strict or other Settlement, shall be intitled to receive such Sum of Money or Overplus, the same shall be by the said General Commissioners applied and disposed of in such Manner as is directed by the said recited Act, in Cases wherein any Money is to be paid for the Purchase or Exchange of any Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments, to be settled to the same Uses.

Compensation to be made for Lands taken.

XXXIX. And be it further enacted, That the Lord or Lords, Lady or Ladies of the said Manor of *Martham*, the Vicar of the said Vicarage of *Martham* for the Time being, and each and every Owner or Proprietor of Twenty Acres of Land to be drained by virtue of this Act, shall from and after the Execution of the Award herein directed to be made by the said General Commissioners, be and are hereby appointed Special Commissioners, for the Purpose of draining the Marshes, Commonable Fen Lands, Commons, and Waste Grounds directed to be drained by virtue of this Act.

Special Commissioners appointed.

XL. And be it further enacted, That it shall and may be lawful to and for each and every such Special Commissioner, by Writing under his or her Hand, from Time to Time, and for such Time as he or they shall think fit, to nominate and appoint an Agent or Deputy to act in

Appointment of Deputy Special Commissioners.

his



his or her Absence, as a Commissioner in his or her Stead, and every such Agent or Deputy shall and may, in the Absence of the Person by whom he shall be so nominated and appointed, act as a Special Commissioner, and shall have the like Power and Authority as the Person by whom such Agent or Deputy shall be appointed; but no such Agent or Deputy shall be capable of acting as Agent or Deputy for the Purposes of this Act for any more than one Special Commissioner at any one Time.

Commis-  
sioners to take  
an Oath or  
Affirmation.

XLI. And be it further enacted, That no Person shall be capable of acting as a Special Commissioner (except it be in administering the Oath or Affirmation hereinafter mentioned to any of the other Special Commissioners,) until he or she shall have taken the Oath following, or, being of the People called *Quakers*, make Affirmation, *videlicet*:

“ I. *A. B.* do swear, [*or, being of the People called Quakers, do so-*  
“ *lemnly affirm,*] That I will, without Favour or Affection, Ha-  
“ tred or Malice, truly and impartially according to the best of my  
“ Skill and Knowledge, execute and perform all and every the Powers  
“ and Authorities in the Execution whereof I shall at any Time act as  
“ a Special Commissioner, appointed in and by an Act made in the  
“ Forty-seventh Year of the Reign of His Majesty King *George the*  
“ *Third*, intituled, [*here insert the Title of this Act.*]  
“ So help me GOD.”

Which Oath or Affirmation it shall and may be lawful to and for any One of the said Special Commissioners to administer; and such Special Commissioner is hereby required to administer the same to the other Special Commissioners.

Persons act-  
ing not being  
qualified, to  
forfeit 20l.

XLII. And be it further enacted, That, in case any Person shall presume to act as a Special Commissioner before he or she shall have taken the said Oath, or made Affirmation; or, if any Person not being duly qualified as required by this Act, shall have acted, or shall have appointed any Agent or Deputy, who shall have acted as such Agent or Deputy in the Execution of this Act, every such Person shall forfeit and pay for every such Offence the Sum of Twenty Pounds to any Person or Persons who shall sue for the same, to be recovered, with full Costs of Suit, by Action of Debt, or on the Case, Bill, Plaint, or Information in any of His Majesty's Courts of Record at *Westminster*, wherein no Essoign, Protection, or Wager of Law, or any more than one Imparlance shall be allowed; and the Person so prosecuted shall prove that he or she has taken such Oath, or made such Affirmation, and is qualified as aforesaid, or otherwise shall pay the said Sum of Twenty Pounds, without any other Proof or Evidence on the Part of the Prosecutor, than that such Person has acted as a Special Commissioner in the Execution of this Act, or has appointed an Agent or Deputy who has acted in the Execution of this Act; One Moiety of which Penalty shall be paid to the Prosecutor, and the other Moiety shall be applied to the Purposes of this Act.

First Meeting  
of Special  
Commis-  
sioners.

XLIII. And be it further enacted, That the said Special Commis-  
sioners shall, and they are hereby required to hold their First Meeting,  
for carrying this Act into Execution, in the said Parish of *Marlham*, on  
the



the First *Monday* in the Month next after the Execution of the said Award by the said General Commissioners, between the Hours of Ten and Twelve in the Forenoon; and the said Special Commissioners shall meet on the First *Tuesday* in the Month of *May* in each and every Year, between the Hours of Ten and Twelve in the Forenoon, in the said Parish of *Martham*, which last mentioned Meeting shall be called the General Annual Meeting of the said Special Commissioners; and the said Special Commissioners shall and may, from Time to Time, adjourn themselves to meet at any convenient Place within the said Parish, or within Twelve Miles thereof, which they, the said Special Commissioners, or the major Part of them present at any such Meeting shall appoint; and if it shall so happen that there shall not appear a sufficient Number of the said Special Commissioners at any such Meeting, to act or adjourn to another Day (Two Special Commissioners to be deemed sufficient for the Purpose of adjourning), or if they shall refuse or neglect to adjourn, or if any Two or more of the said Special Commissioners shall deem a Meeting of the said Special Commissioners to be necessary or proper, before the Time appointed for the then next General Annual Meeting or Meeting by Adjournment of such Commissioners, then, and in every such Case, the Clerk to the said Special Commissioners, or any Two or more of the said Special Commissioners, shall and may call a Meeting, to be holden within the said Parish of *Martham*, by Writing under his Hand or their Hands, affixed upon the principal Door of the said Church, belonging to the said Parish of *Martham*, and by publishing the same in the *Norfolk Chronicle*, or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*, Eight Days, at least, previous to the Time of such Meeting; and no Act of the said Special Commissioners shall be good or valid, unless done at some public Meeting to be holden by virtue of this Act, (save as may be herein excepted); and that all Powers and Authorities granted to, or vested in the said Special Commissioners shall and may, from Time to Time, be exercised by the major Part of them present at any such Meeting, the whole Number present at such Meeting not being less than Three; and the said Special Commissioners shall, at all their Meetings in pursuance of this Act, be allowed Ten Shillings each per Day, out of the Monies to arise by virtue of this Act, and no more, towards their Expences, so that such Allowance do not, in the Whole, exceed the Sum of Three Pounds per Day, at every such Meeting of the said Special Commissioners.

XLIV. And be it further enacted, That fair and regular Entries shall be made in a Book or Books to be provided for that Purpose, of all the Acts, Orders, Rules, Regulations, Directions, and Proceedings of the said Special Commissioners, relative to the Execution of this Act, and of the Names of the Special Commissioners, who shall be present at the respective Meetings, and the same shall be signed by the Clerk to the said Special Commissioners; and all such Entries, being so signed, shall be deemed Originals, and shall be allowed to be read in Evidence in all Courts whatsoever, in all Cases, Suits, and Actions, touching any Thing done in pursuance of this Act.

XLV. And be it further enacted, That the said Special Commissioners shall and may sue and be sued in the Name of their Clerk; and [Loc. & Per.] 7 T that

Books to be kept.  
Action to be in the Name of the Clerk.



that no Action that shall be brought or commenced by or against the said Special Commissioners, or any of them, by virtue or on account of this Act, in the Name of their Clerk, shall abate or be discontinued by the Death or Removal of such Clerk, or by the Act of such Clerk without the Consent of the said Special Commissioners, but the Clerk for the Time being of the said Special Commissioners, shall always be deemed Plaintiff or Defendant in such Action, as the Case may be, except in such Action or Actions as shall be prosecuted between the said Special Commissioners and their Clerk for the Time being, in which Case any one of the said Special Commissioners shall or may be made Plaintiff or Defendant as the Case shall be.

Clerk to be  
paid his Ex-  
pences.

XLVI. Provided always, That every such Clerk or Special Commissioner, in whose Name any Action or Suit shall be commenced, prosecuted, or defended in pursuance of this Act, shall always be reimbursed and paid out of the Monies to arise by virtue of this Act, all such Costs and Charges as by the Event of any such Proceedings he shall be put to or become chargeable with by reason of his having been to made Plaintiff or Defendant therein.

For appoint-  
ing Officers.

XLVII. And be it further enacted, That the said Special Commissioners shall and may at their First, or any subsequent Meeting appoint a Clerk or Clerks, Treasurer, Surveyor, and such other Officer or Officers for the Execution of this Act, as the said Special Commissioners shall think proper, and from Time to Time remove them, or any of them, and appoint others as they shall find necessary or convenient; and by and out of the Monies to be raised by virtue of this Act, may and are hereby empowered to appoint and pay such Salaries and Allowances to such Officers, and to all other Persons by them the said Special Commissioners employed in the Execution of this Act, as they shall think reasonable; and the said Special Commissioners shall take such Security for the due Execution of the respective Offices by such Person and Persons as aforesaid, as the said Special Commissioners shall think proper; and all such Officers and Persons to be appointed as aforesaid, shall, under their Hands, at such Time and Times, and in such Manner as the said Special Commissioners shall direct, deliver to such Special Commissioners, or to such Person or Persons as they shall appoint, true and perfect Accounts, in Writing, of all Matters and Things committed to their Charge by virtue of this Act, and also of all Monies which shall have been by such Officer or Officers, and Person or Persons respectively, received by virtue and for the Purposes of this Act, and how much thereof has been paid and disbursed, and for what Purposes, together with the proper and legal Receipts or Vouchers for such Payments and shall pay all such Monies as shall remain in their respective Hands, to the said Special Commissioners, or to such Person or Persons as they shall appoint; and all the said Officers and Persons so accounting as aforesaid, shall upon Oath verify their said Accounts; (which Oath any one of the said Special Commissioners is hereby empowered to administer), and if such Officer or Person shall not make and render, or shall refuse to verify upon Oath any such Account, or shall refuse to produce or deliver up the Receipts or Vouchers relating to the same, or shall not deliver to the said Special Commissioners, or to such Per-  
son



son or Persons as they shall appoint, within Twenty Days after being thereunto required by such Special Commissioners, all Books, Papers, and Writings in his or their Custody or Power relating to the Execution of this Act, or shall refuse or neglect to pay such Monies, as upon the Balance of any Account or Accounts, shall appear to be in their respective Hands, to the said Special Commissioners, or as they shall direct or appoint, then and in any of the Cases aforesaid, such Special Commissioners may, and they are hereby authorized and empowered, to bring, or cause to be brought, any Action or Actions against the Officer or Officers, Person or Persons so neglecting or refusing as aforesaid; or if Complaint shall be made by the said Special Commissioners, or by such Person or Persons as they shall appoint for that Purpose, of any such Refusal or Neglect as aforesaid, to any Two or more of the Justices of the Peace for the County or Place wherein such Officer or Officers, Person or Persons so neglecting or refusing, shall be and reside, such Justices may, and are hereby authorized and required, by a Warrant or Warrants under their Hands and Seals, to cause the Officer or Officers, Person or Persons, so refusing or neglecting, to be brought before them; and upon his or their appearing, or not being found, to hear and determine the Matter in a summary Way; and if upon the Confession of the Party or Parties, or by the Testimony of any credible Witness or Witnesses upon Oath, (which Oath such Justices are hereby empowered to administer,) it shall appear to such Justices that any of the Money that shall have been collected or raised by virtue of this Act, shall be in the Hands of such Officer or Officers, Person or Persons, such Justices may, and are hereby authorized and required, upon Non-payment thereof, by Warrant or Warrants under their Hands and Seals, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer or Officers, Person or Persons respectively; and if no Goods or Chattels of such Officer or Officers, Person or Persons, can be found, sufficient to answer and satisfy the said Money, and the Charges of distraining and selling the same; or if it shall appear to such Justices, upon the Confession of the Party or Parties, or by the Testimony of any credible Witness or Witnesses upon Oath, (which Oath the said Justices are hereby empowered to administer,) that any such Officer or Person shall not have made and rendered, or shall refuse to verify upon Oath, any such Account, or shall refuse to produce or deliver up the Receipts or Vouchers, relating to the same, or shall not have delivered to the said Special Commissioners, or to such Person or Persons as they shall have appointed, within Twenty Days after being thereunto required by such Special Commissioners, all Books, Papers, and Writings in his or their Custody or Power relating to the Execution of this Act, then and in any or either the Cases aforesaid, such Justices shall commit every such Offender to the common Gaol or House of Correction for the said County of *Norfolk*, there to remain without Bail or Mainprize, until he shall make and give a true and perfect Account and Payment, as aforesaid, or until he shall have compounded with the said Special Commissioners, and shall have paid such Composition, in such Manner as they shall appoint, which Composition the said Special Commissioners are hereby empowered to make, and until he shall deliver up such Books, Papers, Vouchers, and Writings as aforesaid, or give Satisfaction in respect thereof to the said Special Commissioners. Provided always, that



that no such Officer or Person, so committed for want of sufficient Distress, shall be detained in Prison by virtue of this Act for any longer Space of Time than Six Calendar Months.

Works of  
Drainage to  
be kept in  
Repair.

XLVIII. And be it further enacted, That the said Special Commissioners shall be, and they are hereby fully empowered, from Time to Time, by such Agents or Persons as they shall think proper to employ support, maintain, repair, and improve all such Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works as shall be made or erected by the said General Commissioners in, through, over, or upon the Lands and Grounds to be drained by virtue of this Act, for the Purpose of draining the same, and from Time to Time to renew such of them as shall fall into Decay, and become incapable of being repaired; and also to make and erect all such Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works as shall appear to the said Special Commissioners, to be necessary for effectually draining the said Lands and Grounds; all which Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works to be made or erected by the said General Commissioners, or by the said Special Commissioners, and the Right and Property to and in the same, and the Materials of which the same shall consist, and also the Piece or Pieces of Land to be set out and allotted by the said General Commissioners to the said Special Commissioners, for maintaining, repairing, and preserving the same, shall be, and the same is and are hereby vested in the said Special Commissioners for the Time being, and they are hereby authorized and required, from Time to Time, to insure from Fire all and every such Mills, Engines, Edifices, and Buildings as shall at any Time or Times be erected by virtue of this Act.

To raise  
Money for  
maintaining  
Works.

XLIX. And be it further enacted, That the said Special Commissioners shall any may, from Time to Time, and at all Times after the Award of the said General Commissioners shall be made and executed, at any of their Meetings to be holden in pursuance of this Act, assess, rate, tax, and charge all and every the Owners and Occupiers of the said Lands and Grounds to be drained by virtue of this Act, with such equal and proportionable Rates and Assessments upon their respective Parts and Shares thereof, as they the said Special Commissioners shall judge necessary for the making, maintaining, repairing, and supporting of the several Works for the Drainage of the said Lands and Grounds, or any Part thereof, and for making any necessary Alterations or Enlargements therein or thereto, as Occasion shall require; all which said Rates, Taxes, and Assessments shall be collected by and paid to such Collector or Collectors, or other Person or Persons, and at such Times, as they the said Special Commissioners shall appoint, and shall be applied by them in Discharge of all such Expences as they shall incur in the Execution of this Act.

Tenants to  
pay Taxes.

L. And be it further enacted, That all Tenants and Occupiers of all and singular the Lands and Grounds to be drained by virtue of this Act, shall pay, and are hereby authorized and required to pay, such Sums of Money as shall be so assessed on the Lands in their respective Occupations by the said Special Commissioners to the Collector



lector or Collectors, or other Person or Persons appointed by the said Special Commissioners, for the Purpose of receiving the same; and it shall and may be lawful to and for every such Tenant and Occupier to deduct and retain the same out of his, her, or their Rent or Rents, and the several Owners are hereby required to allow such Deductions; and every such Tenant, paying such Rate or Assessment, shall be discharged of so much Money as the same shall amount to, as fully as if the same had been paid to his or her Landlord.

LI. And be it further enacted, That in case any Owner or Owners, Tenant or Tenants, Occupier or Occupiers, of any Lands or Grounds to be drained by virtue of this Act, shall make Default in Payment of the Whole or any Part of the Sum or Sums of Money to be assessed, rated, taxed, or charged upon him, her, or them for or in respect of such Lands or Grounds, or any Part thereof, and shall continue in such Default for the Space Ten Days next after the Time appointed by the said Special Commissioners for such Payment; and after Demand of such Rates and Assessments made by the Collector or Collectors, or other Person or Persons authorized to collect such Rates and Assessments, by Writing, left at the usual Place or Places of Abode of such Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, who is, are, or ought to pay the same; or if such Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, shall not have any Place of Abode within the said Parish of *Martham*, or within Two Miles of the same, then, after Demand made by the Collector or Collectors, or other Person or Persons authorized to collect such Rates and Assessments, by Notice in Writing, affixed on some conspicuous Part of the Premises chargeable with such Rates and Assessments, it shall and may be lawful to and for such Collector or Collectors, or other Person or Persons authorized as aforesaid, by virtue of any Warrant or Precept under the Hands and Seals of any Two or more of the said Special Commissioners, (which Warrant or Precept such Two or more Special Commissioners are hereby empowered and required to give as there shall be Occasion, although not assembled at any Meeting in pursuance of this Act,) to enter into and upon all or any Part of the Lands or Grounds so rated and assessed as aforesaid, and into and upon all or any Messuages or Tenements thereupon standing, and there, or in any Part or Parts of the Lands, Grounds, Messuages, or Tenements upon which such Entry shall be made, to distrain all or any such Goods, Chattels, or Cattle as shall be there found; and it shall and may be lawful to and for such Collector or Collectors, or other Person or Persons authorized as aforesaid, to impound the Goods, Chattels, or Cattle so distrained on any Part of the Messuages or Lands whereon the same shall be found, or otherwise to take, lead, drive, or carry away and keep the same, for the Space of Five Days, leaving Notice in Writing of the Cause of such Distress or Distresses at the Messuages or Tenements, or on some conspicuous Part of the Lands or Grounds upon which such Distress shall be taken, or otherwise at the usual Place or Places of Abode of the Owner or Owners of such Goods, Chattels, or Cattle; and if the Owner or Owners of such Goods, Chattels, or Cattle so distrained, shall not pay the Sum or Sums of Money so assessed, rated, and distrained for as aforesaid, together with the Costs and Charges of such Warrant, and of taking such Distress, and of keeping and maintaining the same,

For Recovery  
of Taxes.

[*Loc. & Per.*]

7 U

or



or replevy the said Goods, Chattels, or Cattle so distrained, according to the Laws now in Force for Non-Payment of Rent, within the said Five Days, that then the said Goods, Chattels, or Cattle so distrained, shall be appraised by Two or more indifferent Persons, to be sworn by the Constable or Headborough of the said Parish of *Martham*, (who is hereby authorized and required to administer an Oath for that Purpose,) to appraise the same according to the best of their Judgment; and that after such Appraisement as aforesaid, the said Goods, Chattels, or Cattle shall be sold by the said Collector or Collectors, or other Person or Persons as aforesaid, for Payment of the said Sum or Sums of Money so assessed, rated, and distrained for, and of the said Costs and Charges, and also of the Costs and Charges of appraising and selling such Distress, and that the Overplus arising from such Sale, (if any), after Payment of the said Sum or Sums of Money, shall be returned, on Demand, to the Owner or Owners of such Goods, Chattels, or Cattle.

Lands untenanted to remain a Security for the Rates.

LII. Provided always, and be it enacted, That in case any of the Lands or Grounds to be drained as aforesaid, shall, at any Time hereafter, be untenanted or unoccupied, so that no sufficient Distress can be made for levying the said Rates and Assessments; then the Lands and Grounds chargeable therewith shall remain a Security for Payment of such Rates and Assessments; and all Goods, Chattels, and Cattle which shall at any Time thereafter be found thereon, shall and may be distrained, impounded, kept, and sold in Manner aforesaid, until such Rates and Assessments, and all Arrears thereof, and the Charges incident to such Distress, shall be fully paid and satisfied.

Punishment for destroying Works.

LIII. And be it further enacted, That if any Person or Persons shall wilfully and maliciously cut, damage, break down, demolish, or destroy any Bank, Mill, Engine, Dam, Flood-gate, Bridge, Dike, Sluice, or Tunnel already made, or which shall at any Time hereafter be made or erected, supported, maintained, or used for the Purposes of this Act, every Person so offending, and being convicted thereof, shall be deemed guilty of Felony; and the Court before which such Person shall be tried and convicted shall have Power and Authority to cause such Person or Persons to be punished in like Manner as Felons are directed to be punished by the Laws and Statutes of this Realm; or, in Mitigation of such Punishment, such Court may, if they think fit, award such Sentence as the Law directs in Cases of Petit Larcency.

Persons damaging Works to forfeit a Sum not exceeding Fifty Pounds.

LIV. And be it further enacted, That if any Person or Persons shall wilfully or maliciously stop, dam up, or damage any Drain, Watercourse, Dam, Bridge, Stile, or other Work or Works which shall at any Time hereafter be making or erecting, or made or erected, supported, maintained, or used for the Purposes of this Act, every Person so offending, and being thereof convicted before any Two or more Justices of the Peace for the said County of *Norfolk*, on the Oath of one or more credible Witness or Witnesses; (which Oath such Justices are hereby empowered to administer,) shall forfeit and pay any Sum not exceeding Fifty Pounds to be levied by Distress and Sale of the Goods and Chattels of every such Offender, by Warrant under the Hands and Seals of such Justices; and such Money, when so levied, shall be paid to any One or more of the said Special Commissioners, or to their Clerk, and shall be applied



applied towards the Discharge of the Expences attending the Execution of this Act; and, for Want of sufficient Distress, such Offender or Offenders shall, by the said Justices, be committed to the Common Gaol of the said County of *Norfolk*, for any Time not exceeding Twelve Calendar Months, at the Discretion of the said Justices.

LV. And be it further enacted, That if any Owner or Owners, Occupier or Occupiers, of any Part or Parts of the Lands and Grounds to be drained by virtue of this Act, to which any Dike or Dikes, Ditch or Ditches, Drain or Drains, shall belong, shall neglect or refuse sufficiently to scour, cleanse, open, or repair any Dike, Ditch, or Drain, or to make the same of a sufficient Depth and Width, after Ten Days' Notice in writing given to him, her, or them, or left at his, her or their usual Place or Places of Abode, from Time to Time for that Purpose, by the Collector or other Officer to be appointed under and by virtue of this Act, (such Collector or other Officer having an Order in Writing for that Purpose under the Hands of Two or more of the said Special Commissioners,) every such Owner or Occupier shall for every such Neglector Refusal forfeit and pay any Sum not exceeding Four Shillings for every Rod of the Ditch or Drain so neglected to be scoured, cleansed, opened, repaired, deepened, or widened; and it shall and may be lawful from Time to Time, to and for such Collector or other Officer to cause such Dikes, Ditches, and Drains, at the Charges and Expences of such Owner or Occupier, to be scoured, cleansed, opened, repaired, deepened, and widened in a sufficient Manner; and where a Way shall have been made over any Dike, Ditch, or Drain, without a sufficient Tunnell, to cause such Way to be taken up, and such Dike, Ditch, or Drain, to be made of a proper Width and Depth, and by Warrant or Precept under the Hands of Three or more of the Special Commissioners, to levy such Penalty, and also such Charges and Expences, upon such Owner or Owners, Occupier, or Occupiers, by Distress and Sale of his, her, or their Goods and Chattels; and such Penalties shall be applied for the Purposes of this Act.

Penalty on Neglect to cleanse Ditches.

LVI. And be it further enacted, That no Tree or Trees shall at any Time or Times hereafter be planted, or any Building, Stack, or Rick erected or built, (except by Order or Permission of the said Special Commissioners,) nearer to any Mill or Engine which shall be made, erected, or employed as aforesaid, than two Hundred Yards; and if any Tree or Trees shall be planted; or any Building, Stack, or Rick shall be hereafter made, erected, or built within the Distance aforesaid, of any such Mill or Engine; and if the Owner or Owners of any such Tree or Trees, Building, Stack, or Rick, shall neglect to take down and remove or cause to be taken down and removed, such Tree or Trees, Building, Stack, or Rick, for the Space of Fourteen Days, after Notice in Writing shall have been given to him or them for that Purpose, or left at his, her, or their last or usual Place or Places of Abode, signed by any Three or more of the said Special Commissioners, then and in any such Case it shall and may be lawful to and for the said Special Commissioners, to cause such Tree or Trees to be taken down and carried away, and such Building, Stack, or Rick to be pulled down and removed, and the Costs and Expences thereby incurred, shall be reimbursed

No Trees to be planted, or Buildings erected within 200 Yards of any Engines, to be erected, except by Order of the Commissioners.



reimbursed to the said Special Commissioners by the Person or Persons who committed the Offence, and may be recovered by Distress and Sale of his, her, or their Goods, Chattels, and Stock, wherever the same shall be found by Warrant under the Hands and Seals of any Three of the said Special Commissioners.

Herbage of  
Lands, &c.  
to be let  
Annually.

LVII. And be it further enacted, that the Grass and Herbage growing, arising, and renewing upon such Parts of the Lands and Grounds hereby directed to be divided and allotted, as shall be vested in the said Special Commissioners, shall in future be let by the said Special Commissioners at their General Annual Meetings to be holden as aforesaid, for the best Rent or Rents, that can or may be gotten for the same, and such Rents shall be applied by the said Special Commissioners for the general Purpose of Drainage under this Act, in such Manner as they shall at such Annual Meetings direct.

Appeal to the  
Sessions.

LVIII. And be it further enacted, That if any Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, shall think himself, herself, and themselves aggrieved by any thing done in pursuance of this, or the said recited Act, (other than, and except such Orders and Determinations of the said General Commissioners, as are herein, or by the said recited Act, declared to be final or conclusive, and except in such Cases wherein an Issue at Law shall be tried, as hereinbefore mentioned,) then, and in every such Case he, she, or they may appeal to the Justices at the General Quarter Sessions of the Peace, which shall be holden for the said County of *Norfolk*, within Four Calendar Months next, after the Cause of Complaint shall have arisen, on giving to the said General Commissioners or any Two of them, and to the Party or Parties concerned, in case the Appeal shall be made against any Act or Determination of the said General Commissioners, or to the Clerk of the said Special Commissioners, in case the Appeal shall be made against any Act or Determination of the said Special Commissioners, Ten Days' Notice in Writing of such Appeal, and of the Matter thereof; and the Justices, (not interested in the Premises.) at their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant, to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus, (if any,) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all the Parties concerned; but in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion, shall seem reasonable, and to be levied in Manner aforesaid.

Recovery of  
Penalties by  
Distress and  
Sale.

LIX. And be it further enacted, That all Penalties and Forfeitures by this Act imposed and incurred, (for the Recovery and Application whereof no particular Method is herein before directed,) shall be levied







Distress not  
unlawful for  
Want of  
Form.

LXII. And be it further enacted, That where any Distress shall be made for any Tax, Rate or Sum of Money, to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form, in the Rate or Assessment to be made, or in the Information, Summons, Conviction, Warrant, Distress or other Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio*, on account of any Irregularity which shall be afterwards done by the Party or Parties so distraining, but the Party or Parties so aggrieved by such Irregularity, shall and may recover full Satisfaction for the special Damage in an Action on the Case.

Limitation  
of Action.

LXIII. Provided always, and be it enacted, That no Action or Suit shall be commenced or prosecuted against any Person or Persons, for any Thing done or to be done, by virtue or in pursuance of this Act, until after Thirty Days' Notice thereof in Writing, signed by the Party or Parties aggrieved, shall have been given to the Party or Parties complained of, or left at his, her or their last or usual Place or Places of Abode, thereby setting forth the Cause of such Action or Suit, nor after sufficient Satisfaction, or Tender thereof, has been made to the Party or Parties aggrieved, nor after Six Calendar Months, next after the Fact committed, or the Cause of such Action shall have arisen; and every Action commenced and prosecuted against any Person or Persons for any Thing done in pursuance of this Act shall be brought and laid in the said County of *Norfolk*, and not elsewhere; and the Defendant or Defendants in every such Action or Suit shall and may plead at his or their Election, specially, or the General Issue; and if in Replevin, may justify and avow by virtue of this Act as Persons acting by Authority of Commissioners of Sewers are enabled to do, and give this Act, and the Special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance, or by the Authority of this Act; and if, upon the Trial of such Action or Suit, it shall appear to have been so done, or that such Action or Suit shall be brought before the Expiration of Thirty Days next after such Notice shall have been given as aforesaid, or after sufficient Satisfaction made or tendered as aforesaid, or after the Time limited for bringing the same as aforesaid, or be brought or laid in any other County than as aforesaid, then, and in every of the said Cases, the Jury shall find a Verdict for the Defendant or Defendants, Avowant or Avowants; and, in all Cases where a Verdict shall be found for any Defendant or Defendants, Avowant or Avowants in any such Action or Suit, or the Plaintiff or Plaintiffs therein shall discontinue the same, after the Defendant or Defendants shall have appeared thereto, or shall be nonsuited; or if, upon Demurrer, Judgment shall be given against such Plaintiff or Plaintiffs, then, and in every such Case, the Defendant or Defendants, Avowant or Avowants shall recover Treble Costs, and have such and the like Remedy for recovering the same as any Defendant or Defendants, Avowant or Avowants, hath or have for recovering Costs of Suit in any other Case by Law.

General  
Saving.

LXIV. Saving always, to the King's Most Excellent Majesty, his Heirs and Successors, and all and every other Person or Persons, Body  
or



or Bodies Politic, Corporate, or Collegiate, his, her, or their Heirs, Successors, Executors, and Administrators, (save and except the several Persons to whom any Allotment or Allotments shall be made, in pursuance of this Act, for or in respect of such Rights and Interests, as are hereby meant, or intended to be barred, destroyed, or extinguished, and all Persons respectively claiming under them, or in Remainder after them,) all such Right, Title, and Interest, as they, every, or any of them could or ought to have had and enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

LXV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded. Public Act.

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