



ANNO QUARTO

# GULIELMI IV. REGIS.

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## Cap. 14.

An Act for inclosing, dividing, and allotting the Commons, Drovers, Banks, and Waste Lands in the Parish of *Elm* in the *Isle of Ely* in the County of *Cambridge*. [16th June 1834.]

WHEREAS there are lying dispersed within the Boundaries of the Parish of *Elm* in the *Isle of Ely* in the County of *Cambridge* several Commons, Drovers, Banks, and Waste Lands; containing together by Estimation One hundred and fifty Acres or thereabouts, exclusive of a certain Common or Fen, forming Part of the Parish of *Elm* aforesaid, commonly called or known by the Name of *Crowmeer Common*, containing by Estimation Forty-five Acres or thereabouts: And whereas the Right Reverend *Bowyer Edward* Lord Bishop of *Ely*, in right of his See, is Lord of the Manor of *Wisbech Barton*, which said Manor extends over the said Parish of *Elm*, and as such is entitled to the Soil of all the Commons, Drovers, Banks, and Waste Lands within the said Manor: And whereas *Richard Fountayne Wilson*, *Joseph Marshall*, and *William Peckover*, Esquires, the Reverend *William Manning* Clerk, *John Goddard Marshall*, and *William Dow*, Gentlemen, and several other Persons, are the Owners of ancient Commonable Messuages and Tofts in the Parish of *Elm* aforesaid, and in respect thereof or otherwise are or claim to be entitled to Right of Common in, upon, and over the said Commons, Drovers, Banks, and Waste Lands, or some Part or Parts thereof: And whereas the said Commons, Drovers, Banks, and Waste Lands have been of late Years much encroached and trespassed upon by Persons having no Title to the same, and are in their present State of

[Private.]

little or no Value to the several Parties entitled thereto, and it would be of great Advantage to the said Parties entitled thereto if the same were inclosed, divided, and allotted; but the said Objects cannot be effected without the Aid and Authority of Parliament: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King George the Third, 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 another Act was passed in the First and Second Year of the Reign of His late Majesty King George the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in England*: 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 the said Two recited Acts respectively passed in the Forty-first Year of the Reign of His said late Majesty King George the Third, and in the First and Second Year of the Reign of His said late Majesty King George the Fourth, and the several Enactments and Provisions of the said respective Acts, shall from and after the passing of this Act be deemed and taken to be and be applied and executed as Part of this Act for all Purposes and to all Intents whatsoever, except only in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall by this Act or otherwise become or be inapplicable to any of the Purposes of this Act.

41G.3.c.109.

1 & 2 G. 4.  
c. 23.

Powers of recited Acts to apply to this Act.

Commons in Elm to be inclosed.

II. And be it further enacted, That the several Commons, Drovers, Banks, and Waste Lands lying within the Boundaries of the Parish of *Elm* aforesaid in the said *Isle of Ely* and County of *Cambridge* shall be inclosed, divided, and allotted by and under the Direction of the Commissioner hereby appointed or hereafter to be appointed for that Purpose, and subject to the several Enactments and Provisions of the said recited Acts and this Act.

Appointment of Commissioner for Inclosure.

III. And be it further enacted, That *Joseph Jackson* of *March* in the said *Isle of Ely* and County of *Cambridge*, Gentleman, or in case he shall decline to act, then *Joseph Truslove* of *Cambridge* in the said County of *Cambridge*, Gentleman, or in case he shall decline to act, then *Alexander Watford* of *Cambridge* aforesaid, Gentleman, and the Successor for the Time being of the said *Joseph Jackson*, *Joseph Truslove*, or *Alexander Watford*, to be from Time to Time elected in the Manner herein-after mentioned, shall be and he is hereby appointed the Commissioner for inclosing, dividing, and allotting the said Commons, Drovers, Banks, and Waste Lands, and for carrying the said Two recited Acts and this Act and the several Purposes thereof into execution, in such Manner and subject to such Enactments and Provisions as are in the said recited Acts and this Act respectively expressed and contained.

Appointment of future Commissioner.

IV. And be it further enacted, That in case the said *Joseph Jackson* or the said *Joseph Truslove* or the said *Alexander Watford*, as the Case may be, or any future Commissioner to be appointed in his Stead as herein-after mentioned, shall, before the Completion of the Powers hereby vested in him, die, or refuse to act, or become incapable of acting, or for

the Space of Six successive Calendar Months neglect to act in the Execution of this Act, it shall be lawful for the Owners or reputed Owners for the Time being of the greater Number of Commonable Messuages or Tofts having or claiming to have in respect thereof Right of Common upon the said Commons, Drovers, Banks, and Waste Lands, who shall, by themselves or their Agents or Attornies, be present at a Meeting to be held for that Purpose at some Place in the Parish of *Elm* aforesaid, or within the Distance of Two Miles from any of the Boundaries thereof, in pursuance of a Notice from any Two or more of the said Owners, to be advertised in some Newspaper circulated in the said County of *Cambridge*, and also to be affixed on the principal outer Door of the Parish Church of *Elm* aforesaid, at least Fourteen Days before the Day of such Meeting, to elect and appoint some other Person not interested in any Part of the said Commons, Drovers, Banks, and Waste Lands to be a Commissioner in the Place of the said *Joseph Jackson* or the said *Joseph Truslove* or the said *Alexander Watford*, as the Case may be, or of any such future Commissioner so dying, or refusing to act, or becoming incapable of acting, or neglecting to act as aforesaid; and every such Commissioner to be so appointed as aforesaid shall have the same Powers and Authorities for putting the said recited Acts and this Act into execution in all respects whatsoever as are given to the said *Joseph Jackson* or the said *Joseph Truslove* or the said *Alexander Watford*, as the Case may be, by virtue of this Act; and every such Appointment shall be reduced into Writing, and signed by the Parties making the same, and shall be annexed to and deposited with the Award of the said Commissioner herein-after directed to be made: Provided nevertheless, that no such Agent or Attorney shall act for more than One such Owner or reputed Owner of any such Common Right or Rights unless the same Common Right or Rights shall belong to more than One such Owner or reputed Owner thereof.

V. And be it further enacted, That the Commissioner for the Time being for putting the said recited Acts and this Act into execution shall and may appoint some fit and proper Person to be his Clerk to assist him in carrying the said recited Acts and this Act into execution, and may from Time to Time remove such Clerk, and appoint some other fit and proper Person or Persons in his Place, as to the said Commissioner shall seem meet. Appointment of Clerk.

VI. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of carrying the said recited Acts and this Act into execution the said Commissioner, and the Clerk to be appointed by him as herein-before directed, shall respectively be paid for every Day in which they shall respectively travel or be employed in any Business relating to the Execution of the said recited Acts or this Act, during the first Two Years next after the passing of this Act, the Sum of Three Pounds and Three Shillings and no more, and after the Expiration of the said Two Years, until the Powers granted by the said recited Acts and this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings and no more, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be respectively put unto during their several Journies and Attendances in the Execution of the said recited Acts and this Act, over and above the Expences for the Use of the Rooms in which the Meetings shall be holden for carrying the Allowance to Commissioner and Clerk.

the said recited Acts and this Act into execution, and the Expences and Costs of drawing, preparing, copying, ingrossing, and inrolling the Award of the said Commissioner, or any other Deeds or Instruments, and of Notices and Advertisements, all which said last-mentioned Expences and Costs shall also be allowed and paid out of the said Monies which shall be so raised as aforesaid: Provided always, that it shall not be lawful for the said Commissioner to retain or pay to himself or to his Clerk, out of any Monies to be raised or received by him, or over which he may have any Controul, in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk respectively, beyond One Third of such Allowance as they shall be respectively entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Day of the Delivery of the Award herein-after directed to be made to the Clerk of the Peace of the *Isle of Ely*, or in case the Accounts of the said Commissioner herein-after directed to be made and stated shall be appealed against, then not until such Appeal shall have been heard and decided: Provided also, that in case of the Decease of the said Commissioner or of his said Clerk previous to the Execution of the said Award the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the said Accounts, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk, as the Case may be, such Sum of Money as shall appear by the said Accounts to be due thereon.

Appointment  
of Surveyor.

VII. And be it further enacted, That it shall be lawful for the said Commissioner by Writing under his Hand, at his first Sitting to be holden under the Authority of this Act, to appoint some fit and proper Person not interested in the Premises to be the Surveyor for the Purposes of this Act during the Pleasure of the said Commissioner; and in case of the Death or Removal of the said Surveyor, or of his Refusal or Neglect to act, or Incapacity of acting, it shall be lawful for the said Commissioner by Writing under his Hand to appoint in his Place some fit and proper Person not interested in the Premises to be the Surveyor for the Purposes of this Act during the Pleasure of the said Commissioner, and on every future Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion; and it shall also be lawful for the said Commissioner to allow such Surveyor for his Time and Trouble, out of the Monies to be raised for putting the said recited Acts and this Act into execution, any Sum not exceeding One Shilling *per* Acre for surveying, measuring, mapping, and planning any Lands, or any Sum not exceeding Two Pounds and Two Shillings for each and every Day in which he shall be actually and wholly employed, either in surveying, measuring, mapping, or planning, or otherwise in the Business of inclosing, dividing, or allotting for the Purposes of this Act, which said respective Sums shall be in full Satisfaction for the Time and Trouble of such Surveyor, and for all travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act.

Oath to be  
taken by Sur-  
veyor.

VIII. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act until he shall have taken and subscribed the Oath or Affirmation following; (that is to say,)

, I A.B.

I *A. B.* do swear, [*or, being one of the People called Quakers, do solemnly affirm,*] That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Duties incumbent on me as Surveyor by virtue of an Act passed in the Fourth Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour, Affection, Prejudice, or Malice to any Person whomsoever. So help me GOD.

[*Or, being a Quaker, omit the Words 'So help me God.'*]

Which Oath or Affirmation the said Commissioner for the Time being, or any Justice of the Peace for the said *Isle of Ely*, is hereby empowered to administer; and the said Oath or Affirmation so taken and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

IX. Provided always, and be it further enacted, That the said Commissioner and Surveyor shall not make or cause to be made any Survey, Admeasurement, or Plan of any ancient inclosed Lands or Grounds within the Parish of *Elm* aforesaid for the Purposes of the said recited Acts or of this Act, but that it shall be lawful for the said Commissioner and Surveyor, and he and they respectively are hereby authorized and required, to use the Survey, Admeasurement, and Plan of the ancient inclosed Lands and Grounds within the Parish of *Elm* aforesaid, made by *Hugh Waudby* of *Upwell* in the said *Isle of Ely*, Land Surveyor, in or about the Year One thousand eight hundred and twelve, so far as the said Survey, Admeasurement, or Plan shall or may be applicable for the Purposes of the said recited Acts and of this Act.

Existing Survey of ancient inclosed Lands to be used.

X. And be it further enacted, That every Notice required to be given by the said Commissioner for executing this Act (except in Cases where such Notice is by either of the said recited Acts or by this Act directed to be given otherwise) shall be given by Advertisement to be inserted in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper circulated in the said *Isle of Ely*, and by affixing such Notice on the principal outer Door of the Parish Church of *Elm* aforesaid.

Direction for giving Notices.

XI. And be it further enacted, That the said Commissioner shall hold his several Sittings for carrying the said recited Acts and this Act into execution at some Place within the Parish of *Elm* aforesaid, or within the Distance of Two Miles from any of the Boundaries thereof, and may adjourn his said several Sittings from Time to Time as he shall see Occasion, and shall hold the First of his said Sittings within Three Calendar Months next after the passing of this Act, and shall give such Notice as is herein-before directed of his first and every other Sitting for carrying this Act into execution, Sittings by Adjournment only excepted.

Sittings of Commissioner.

XII. And for regulating the Duration of all Sittings to be holden for the Purposes of this Act, be it further enacted, That a Day shall be deemed to consist of Eight Hours in all Sittings to be holden between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours in all Sittings to be holden between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and any Sitting to

Duration of Sittings.

[*Private.*]

be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Commissioner and his Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk in which shall be entered the several Days on which the said Commissioner shall hold his said Sittings, and at what Hour the said Commissioner was first present thereat, and at what Hour he left the same; and such Book shall be signed by the said Commissioner at the Termination of each Sitting, and shall be open to the Inspection of all Persons interested in the said Inclosure, their Agents or Attornies, during the several Sittings to be holden for the Purposes of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same.

Proprietors  
to pay their  
own Ex-  
pences at  
Sittings.

XIII. And be it further enacted, That all Proprietors and Persons interested in the said Inclosure, and their Attornies and Agents, shall pay their own Expences when they or any of them shall attend at any of the Sittings to be held in pursuance of this Act.

Commis-  
sioner to as-  
certain Rights  
and settle  
Differences.

XIV. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required, as soon as conveniently may be after the passing of this Act, by such Evidence, Ways, and Means as he shall deem expedient, to ascertain and determine the respective Rights of Common of the several Owners of ancient Commonable Messuages and Tofts having or claiming to have Right of Common in, upon, or over the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, and the respective Rights and Interests of all other Persons having or claiming to have any Right or Interest in, to, upon, or over the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof; and if any Difference or Dispute shall arise between any of the said Parties interested or claiming to be interested in the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any Allotment, Compensation, or Provision to be made in lieu or in respect thereof, or touching or concerning any other Matter or Thing relating to the said Commons, Drovers, Banks, and Waste Lands, or the Inclosure, Division, or Allotment thereof, it shall be lawful for the said Commissioner, and he is hereby authorized and required, to examine into, hear, and determine every such Difference or Dispute by the Evidence of Witnesses on Oath or Affirmation, (which Oath or Affirmation the said Commissioner is hereby authorized to administer,) or by other proper and sufficient Evidence; and the Determination of the said Commissioner touching every or any such Right, Interest, Claim, Difference, or Dispute as aforesaid shall be final and conclusive upon the several Parties interested or claiming to be interested in the Matter in question, and upon all other Persons, Bodies, and Parties whomsoever, but subject nevertheless to the Power herein-after given to the said Parties respectively to have such Matter in question tried and determined by an Action at Law as is herein-after mentioned.

Commis-  
sioner not to  
determine

XV. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the said Commissioner to determine any  
Question

Question of Title to any Messuages, Tofts, Lands, Tenements, or Hereditaments whatsoever contrary to the actual Possession of the Party or Parties claiming the same (except in Cases of Encroachment as hereinafter mentioned); but in case the said Commissioner shall be of opinion against the Title of any such Party in Possession (except as aforesaid) he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or shall have been recovered by due Course of Law.

Titles contrary to Possession.

XVI. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any such Difference or Dispute as aforesaid, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and order such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour such Determination shall have been made, or any of them, by the Party or Parties against whom such Determination shall have been made by the said Commissioner, or any of them; and in case the Party or Parties who shall be liable to pay such Costs and Charges by virtue of such Order, or any of them, shall neglect or refuse to pay the same on Demand, then it shall be lawful for the said Commissioner and he is hereby required, by Warrant under his Hand directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of such Party or Parties so neglecting or refusing to pay the same, rendering the Overplus (if any) of the Money to be levied by such Distress and Sale, after deducting the Costs and Charges thereof, to the Party or Parties whose Goods or Chattels shall have been so distrained and sold.

Power for Commissioner to award Costs.

XVII. Provided always, and be it further enacted, That in case any Person, Body, or Party interested or claiming to be interested in the said Commons, Drovers, Banks, and Waste Lands, or in the Inclosure, Division, or Allotment thereof, shall be dissatisfied with any Determination of the said Commissioner touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have therein, it shall be lawful for the Person, Body, or Party so dissatisfied, within Three Calendar Months next after such Determination of the said Commissioner shall have been notified in Writing to him, her, or them, or to his, her, or their known Agent or Attorney, to cause an Action at Law to be brought in one of His Majesty's Courts of Record at *Westminster*, or in the Court of Pleas of the *Isle of Ely*, against the Person, Body, or Party in whose Favour such Determination shall have been made, and the Person, Body, or Party by whom or in whose Name such Action shall have been brought shall proceed to a Trial of the Matter in question at the First or Second Assizes to be holden for the County of *Cambridge* or for the said *Isle of Ely* (as the Case may be) next after the Commencement of such Action; and the Defendant or Defendants in such Action, on being served with the usual Process therein, shall appear and plead thereto; and the Parties, Plaintiff or Plaintiffs and Defendant or Defendants in such Action, shall join in One or more Issue or Issues whereby the Right, Interest, or Claim in question may be tried and determined; and such Issue or Issues, in case the said Parties shall not agree in settling the same, shall be settled by the proper Officer of the Court in which such Action shall be pending;

Parties empowered to try their Rights at Law.

pending ; and the Verdict which shall be given in such Action shall be final, binding, and conclusive upon the several Parties thereto, and upon all other Persons, Bodies, and Parties whomsoever, unless the Court in which such Action shall be pending shall set aside such Verdict or order a new Trial to be had therein, which it shall be lawful for such Court to do as is usual in other Cases ; and after such Verdict shall be given, and final Judgment obtained thereon, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Right, Interest, or Claim thereby determined according to the Event of such Trial and Judgment ; and the Costs of every such Action, Trial, and Judgment shall be paid by such Parties and in such Manner as is usual in other Cases of Actions at Law, or as shall be otherwise ordered or directed by the Court in which such Action shall be pending ; and all such Costs and Charges as shall have been paid or incurred by the said Commissioner in or about any such Action shall be paid and discharged by him out of any of the Monies to be raised for the Purposes of this Act.

In case of the Death of Parties, Actions to be carried on in their Names.

XVIII. And be it further enacted, That if any Person in whose Favour any such Determination of the said Commissioner shall have been made, and against whom if living any such Action as aforesaid might have been brought, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action, it shall be lawful for the Person, Body, or Party who might have brought such Action against the Person who shall be so dead to bring the same within the Time so limited as aforesaid against such Person by Name as if he or she were actually living, and to serve the Clerk to the said Commissioner with the usual Process for commencing such Action in the same Manner as the Person so dead might have been served therewith if living ; and it shall be thereupon incumbent on the Heir, Devisee, or personal Representative of the Person so dead, or for any other Person claiming the Benefit of such Determination of the said Commissioner, to appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had therein in the same Manner as if such last-mentioned Person had been actually living ; and if any of the Parties, Plaintiffs or Defendants in any such Action which shall have been so brought as aforesaid, shall die pending the same, such Action shall be continued and proceeded in as if such Event had not happened ; and the Rights, Interests, and Claims of all Parties shall be equally bound and concluded by the Event of every such Action which shall be so brought or continued as aforesaid as if the Death of any of the Parties interested therein had not occurred.

Actions at Law or Death not to impede the Execution of the Act.

XIX. Provided always, and be it further enacted, That if any Action shall be commenced or carried on touching or concerning the Right, Interest, or Claim of any Person, Body, or Party in or to the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, or in the Division, Inclosure, or Allotment thereof, or if any Person interested or claiming to be interested therein shall die, such Action or Death shall not impede, delay, or hinder the said Commissioner from proceeding in the Execution of the Powers vested in him by this Act, but the said Commissioner shall proceed in the Execution of such Powers notwithstanding such Action or Death, and shall award any Allotment or Allotments to which any such Person, Body, or Party may be or claim to be entitled at the Time

of



of such Action or Death in such Manner that the same may be had and taken by the Person, Body, or Party who shall eventually become entitled thereto.

XX. And be it further enacted, That it shall not be lawful for any Person whomsoever, from and after the passing of this Act, until the Division and Allotment hereby authorized shall be made by the said Commissioner, to cut, dig, pare, take, or carry away any Silth, Sand, Sod, Turf, Flag, Soil, or other Material in, upon, or from the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, for any Purpose whatsoever, or under any Right, Privilege, Claim, or Pretence whatsoever, without the Licence of the said Commissioner first obtained in Writing under his Hand (which Licence the said Commissioner is hereby empowered to grant); and if any Person shall, after the passing of this Act, and before the Execution of the said Award, cut, dig, pare, take, or carry away any Silth, Sand, Sod, Turf, Flag, Soil, or other Material in, upon, or from the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, without such Licence of the said Commissioner as aforesaid, or having obtained such Licence shall act in any Manner contrary thereto, or to the Regulations and Restrictions therein contained, every such Person, being convicted of any such Offence before any Justice of the Peace for the said *Isle of Ely* upon the Oath or Affirmation of One or more Witness or Witnesses (which Oath or Affirmation such Justice is hereby empowered to administer), shall forfeit and pay any Sum of Money, in the Discretion of such Justice, not exceeding the Sum of Twenty Pounds; and such Justice shall and he is hereby empowered, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Sum of Money (if not paid on Demand) to be levied by Distress and Sale of the Goods and Chattels of the Person so offending in the Premises, rendering the Overplus of the Money levied (if any), after Payment of the said Penalty, and of the Costs and Charges of such Distress and Sale, to the Owner or reputed Owner, of such Goods and Chattels; and the said Penalty shall be paid to the said Commissioner, and applied by him towards the several Purposes of this Act.

No Turf, &c.  
to be cut  
without  
Licence of  
the Commis-  
sioner.

XXI. And be it further enacted, That in setting out and appointing the several public Carriage, Drift, and Bridle Roads, Highways, and Footways in, over, or upon the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, in pursuance of the said recited Acts and this Act, or any of them, the said Commissioner shall and he is hereby empowered, if he shall think it necessary or proper so to do, to continue or discontinue, stop up, divert, or alter any of the present Carriage Roads, Drift Roads, Bridle Roads, Highways, or Footways passing or leading into, through, over, or from any Part of the said Commons, Drovers, Banks, and Waste Lands (the public Highway or Road leading through and over the same only excepted); and the Charges and Expences of stopping up, diverting, or altering such several Roads and Ways shall be raised and paid by the said Commissioner in the same Manner as any other Expences of carrying this Act into execution are hereby directed to be raised and paid, and the Soil of the Roads and Ways so to be discontinued or stopped up shall be deemed and taken to be Part of the Lands to be divided and allotted by virtue of this Act: Provided never-

Power for  
Commis-  
sioner to  
stop up and  
divert Roads

[Private,]

theless, that no such Road or Way passing or leading into or through any ancient inclosed Lands shall be discontinued, stopped up, diverted, turned, or altered without the Concurrence and Order of Two Justices of the Peace for the said *Isle of Ely* not interested in the Premises, such Order to be made upon and after such Notice and subject to such Appeal as is required and directed in and by an Act passed in the Fifty-fifth Year of the Reign of His said late Majesty King *George* the Third, intituled 55G.3. c. 68. *An Act to amend an Act of the Thirteenth Year of His present Majesty, for the Amendment and Preservation of the public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a public Highway, and to extend the Provisions of the same Act to the stopping up of unnecessary Roads.*

Roads made before the passing of this Act not to be repaired by the Commissioner.

XXII. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the said Commissioner to repair or amend any of the public Highways to be set out and appointed by him under the Authority of the said recited Acts and this Act, which shall have been made previously to the passing of this Act, and that all such public Highways as heretofore have been or ought to have been maintained by or at the Charge of the Inhabitants or Occupiers of or within the said Parish of *Elm* or any Division thereof shall from Time to Time be repaired, amended, and maintained by and at the Charge of the said Inhabitants and Occupiers liable to maintain the same, in such Manner as the same were or ought to have been respectively kept in repair before the passing of this Act; and the said Parish of *Elm* or any Division thereof, or the Inhabitants or Occupiers of or in the same, shall not by virtue of this Act, or any thing herein contained, be discharged from such Repair, Amendment, or Maintenance.

Power for Commissioner to set out and enlarge Drains, &c.

XXIII. And be it further enacted, That it shall be lawful for the said Commissioner and he is hereby empowered to set out, allot, appoint, and make all such common Ponds, Pits, and Watering Places, and all such Soak and Fence Ditches, Watercourses, Tunnels, Sluices, Banks, and Bridges, in, through, over, and upon the said Commons, Drovers, Banks, and Waste Lands, and also to enlarge, widen, scour, cleanse, turn, remove, alter, and rebuild all such of the present Ditches, Watercourses, Tunnels, Sluices, Banks, and Bridges in, through, and over the same Commons, Drovers, Banks, and Waste Lands, as well for carrying off and discharging any Waters passing or which he may think it necessary to pass or convey through the same, as also for the Improvement and convenient Enjoyment and Occupation thereof, as to him the said Commissioner shall seem proper and necessary; and the Costs and Expences of making, enlarging, widening, scouring, cleansing, turning, removing, altering, and rebuilding such several Ponds, Pits, Watering Places, Ditches, Watercourses, Tunnels, Sluices, Banks, and Bridges, if not otherwise discharged or provided for, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Pits, Watering Places, Ditches, Watercourses, Tunnels, Sluices, Banks, and Bridges shall at all Times afterwards be cleansed, scoured, repaired, and maintained by such respective Persons, Bodies, or Parties as are now liable to cleanse, scour, repair, and maintain the same respectively,

respectively, or by such other respective Persons, Bodies, or Parties, and in such Manner and by such Means and in such Proportions as the said Commissioner shall by his said Award order and direct.

XXIV. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to authorize the said Commissioner to stop up, discontinue, divert, alter, interfere with, or prejudicially affect any Drain, Watercourse, Sewer, Tunnel, Sluice, Bridge, or Work belonging to or placed under the Jurisdiction or Controul of the Commissioners of Sewers for the Hundred of *Wisbech* and Parts adjacent, or of any Commissioners acting in the Execution of any Act or Acts for the Drainage of any Lands or Grounds lying within the Boundaries of the Parish of *Elm* aforesaid, or any of them, without the previous Consent of the said Commissioners of Sewers and Commissioners for Drainage respectively, to be testified by some Order in that Behalf made at any of their respective Boards or Meetings.

Nothing herein contained to affect prejudicially the Works of the Sewers or Drainage of the Commissioners acting for the Hundred or Parish.

XXV. And be it further enacted, That it shall be lawful for the said Commissioner at any Time or Times when he shall think it convenient or proper, by Notice for that Purpose under his Hand to be affixed on the principal outer Door of the Parish Church of *Elm* aforesaid on Two *Sundays* before Divine Service, to order the Rights of Common in, upon, and over the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, to be suspended or extinguished either in the whole or in part; and from and after the Time to be mentioned in and fixed by any such Notice all such Rights of Common as shall be thereby directed to be suspended or extinguished shall be suspended, or shall cease and be extinguished accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding; and from and after the Time appointed by the said Commissioner for extinguishing the said Rights of Common it shall be lawful for the said Commissioner to let the Herbage arising and renewing from the said Commons, Drovers, Banks, and Waste Lands to such Person or Persons, and for such Sum or Sums of Money, either in the whole or in part, as he the said Commissioner may deem expedient, for any Period not exceeding Six Months at each Letting, and to apply the Proceeds thereof towards defraying and discharging the Expences incident to or attending the obtaining and carrying this Act into execution.

Power for Commissioner to suspend or extinguish Rights of Common.

XXVI. And be it further enacted, That all Encroachments and Inclosures which have been made or taken by any Person or Persons whomsoever in, upon, or from the Commons, Drovers, Banks, and Waste Lands within the said Parish, or any Part or Parts thereof, within Twenty Years last past before the passing of this Act, whether any Amerciament, Rent, or Acknowledgment hath or hath not been paid for or in respect of the same to or for the Use of the Lord of the Soil, or any other Person or Persons whomsoever, (except only such Encroachments and Inclosures as shall have been legally granted out for the Space of Six Years now last past or upwards,) shall be deemed and taken to be Part and Parcel of the said Commons, Drovers, Banks, and Waste Lands by this Act directed to be inclosed, divided, and allotted; and in case any Dispute or Question shall arise touching any such Encroachment or Inclosure, or the Extent or Duration thereof, such Dispute or Question shall be heard, settled, and determined by the said Commissioner: Provided nevertheless, that it shall be

Encroachments made within Twenty Years to be deemed Part of the Commons.

be lawful for the several Persons who shall be in Possession of such Encroachments and Inclosures, or in Receipt of the Rents or Profits thereof, at the Time of the passing of this Act, to take down, take up, remove, and carry away all such Buildings, Fences, and other Erections as shall then be on such Encroachments and Inclosures respectively, and to convert the same and the Materials thereof to their own respective Uses, without any Interruption from the said Commissioner, or any of his Officers, Agents, or Servants.

Power for Commissioner to obtain Possession of Encroachments, and Persons interrupting him to be subject to a Penalty.

XXVII. And be it further enacted, That if at any Time after Notice in Writing under the Hand of the said Commissioner shall have been given to or left at the Dwelling House or last known Place of Abode of the Person or any One or more of the Persons claiming to be entitled to, or being or claiming to be in Possession or in Receipt of the Rents and Profits of any such Encroachment or Inclosure so declared to be Part or Parcel of the said Commons, Drovers, Banks, and Waste Lands as aforesaid, or if the last Place of Abode of any such Person shall not be known, then after such Notice as aforesaid shall have been affixed on the principal outer Door of the Parish Church of *Elm* aforesaid, to quit and deliver up the Possession of such Encroachment or Inclosure to the said Commissioner, or to any Person or Persons by him authorized to take the Possession thereof, the Possession of such Encroachment or Inclosure, or any Part thereof, shall, contrary to the Intent and Meaning of such Notice, be detained or withheld by any Person or Persons whomsoever from the said Commissioner, or from the Person or Persons by him authorized to take the Possession thereof, or from the Person or Persons to whom the same shall be sold or allotted by the said Commissioner under the Provisions of this Act, or from his, her, or their Agent authorized to take the Possession thereof, it shall be lawful for the said Commissioner, or for any Person or Persons acting under his Authority, or for the Person or Persons to whom such Encroachment or Inclosure shall have been sold or allotted as aforesaid, or his, her, or their Agent, with the Assistance of some Constable or Constables, or other Peace Officer or Peace Officers (who is and are hereby required to be assisting therein), to obtain and take the full and absolute Possession of every or any such Encroachment or Inclosure the Possession whereof shall be detained or withheld as aforesaid, and to remove and put out the Person or Persons in Possession of the same, and to take down, take up, remove, and carry away, and lay and leave at some convenient Distance, for the Use of the Owner or Owners thereof, all such Buildings, Fences, and other Erections, and the Materials thereof, and all such Goods and Chattels as shall then be on such Encroachment or Inclosure, doing as little Damage thereto as may be, but without being answerable for any involuntary or unavoidable Damage that may be done thereto; and if at any Time after such Notice as aforesaid any Person shall, contrary to the Intent and Meaning thereof, detain, withhold, take, or retain, or assist in detaining, withholding, taking, or retaining, the Possession of any such Encroachment or Inclosure as aforesaid, or any Part thereof, or dig, cut, burn, or injure, or assist in digging, cutting, burning, or injuring, the same or any Part thereof, or in any Manner prevent or interrupt the said Commissioner, or any Person or Persons by him authorized to take possession of the same, or the Person or Persons to whom the same shall have been sold or allotted by the said Commissioner as aforesaid, or his, her, or their Agent, from or in obtaining, taking, or retaining Possession thereof, or  
from

from or in the free and exclusive Enjoyment thereof, every Person so offending, and being thereof convicted before any Justice of the Peace for the said *Isle of Ely* upon the Oath or Affirmation of One or more Witness or Witnesses (which Oath or Affirmation such Justice is hereby empowered to administer), shall forfeit and pay by way of Penalty any Sum of Money in the Discretion of such Justice not exceeding the Sum of Twenty Pounds; and such Justice shall and he is hereby empowered, by Warrant under Hand and Seal directed to any Person or Persons whomsoever, to cause such Sum of Money (if not paid on Demand) to be levied by Distress and Sale of the Goods and Chattels of the Person so offending in the Premises, rendering the Overplus of the Money levied (if any), after satisfying the said Penalty and the Costs and Charges of such Distress and Sale, to the Owner or reputed Owner of such Goods and Chattels, and the said Penalty shall be paid to the said Commissioner, and applied by him towards the several Purposes of this Act; and in case any Person so offending and liable to such Penalty as aforesaid shall not have sufficient Goods and Chattels within the Jurisdiction of such Justice whereon or whereby the said Penalty and Costs and Charges can be levied as aforesaid, it shall be lawful for the said Justice to commit such Person to the House of Correction, there to remain for any Time in the Discretion of the said Justice not exceeding Six Calendar Months.

XXVIII. Provided always, and be it further enacted, That it shall be lawful for any Person or Persons claiming to be entitled to, or being or claiming to be in Possession or in Receipt of the Rents and Profits of any such Encroachment or Inclosure so declared to be Part or Parcel of the said Commons, Drovers, Banks, and Waste Lands as aforesaid, within Three Calendar Months next after such Notice in Writing under the Hand of the said Commissioner to quit and deliver up the Possession thereof shall have been given, left, or affixed as aforesaid, to commence an Action at Law whereby his, her, or their Right or Title to the same may be tried upon a feigned Issue, in the same Manner and with and subject to the same Provisions as are herein-before enacted and declared for trying and determining any other Right, Interest, or Claim in question; and the said Commissioner, or any other Person under his Authority, shall not exercise any Right or do any Act of Ownership over such Encroachment or Inclosure in question, save and except the taking possession of such Encroachment or Inclosure, until the Right or Title to the same shall have been determined by such Action, or until such Action shall have been ended by due Course of Law; and such Person or Persons, and the said Commissioner, and all other Parties interested, shall be bound and concluded by the Event of any such Action respecting such Encroachment or Inclosure in question therein.

Power for Parties to try their Title to Encroachments.

XXIX. Provided always, and be it further enacted, That all Pieces and small Parcels of uninclosed Common Land lying by the Side or Sides of any Turnpike Roads, or other public Roads, Drovers, or Lanes within the said Parish of *Elm*, and which in the Judgment of the said Commissioner may be conveniently inclosed without incommoding the public Intercourse on such Roads, Drovers, or Lanes, or rendering such Turnpike Roads of less Breadth than Sixty Feet, and such other public Roads, Drovers, or Lanes of less Breadth than Thirty Feet respectively, shall be deemed Part of the Land within the said Parish of *Elm* intended to be inclosed,

Pieces of Common Land by the Sides of the Roads to be deemed Parcel of the Lands to be inclosed.

[Private.]

divided,

divided, and allotted or sold and disposed of under and by virtue of this Act.

Power for  
Commis-  
sioner to sell  
Lands for  
Payment of  
Expences.

XXX. And for the Purpose of defraying and discharging the Costs, Charges, and Expences preparatory or incident to or attending the obtaining and passing of this Act, or which have been or shall be incurred in consequence thereof or with reference thereto, and the Sum of Fifty Pounds agreed to be paid to the Receiver General for the Time being of the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens by way of Compensation to the said Governor, Bailiffs, and Commonalty for the Relinquishment and giving up by them of their Claim, Right, and Interest in and to the ancient Sewer or Watercourse called *Elm Leam* or *Elm River* herein-after mentioned; and the Costs and Charges of surveying, admeasuring, planning, valuing, inclosing, dividing, and allotting the said Commons, Drovers, Banks, and Waste Lands pursuant to the Directions of this Act, and of preparing and inrolling the Award of the said Commissioner by virtue hereof, and of forming, completing, repairing, stopping, diverting, or altering any Roads or Ways, and of making, enlarging, widening, scouring, cleansing, removing, altering, and rebuilding any Ponds, Pits, Watering Places, Ditches, Watercourses, Tunnels, Sluices, Banks, or Bridges, and of inclosing, hedging, ditching, or fencing any Allotment or Allotments under the Powers and Authorities of the said recited Acts and this Act, or any of them; and the Costs and Charges to be incurred by the said Commissioner relating to any Encroachment or Inclosure which before the passing of this Act shall have been made or taken upon or from the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, or in or relating to any Appeal, Action at Law, or other Proceeding by or against the said Commissioner or his Clerk, or any of his Officers or Servants, touching or concerning any Determination of the said Commissioner, or any thing done or omitted to be done by him or under his Direction in the Execution of the Powers of the said recited Acts and this Act, or any of them; and the Costs and Charges of any Sale or Sales to be made by the said Commissioner under the Authority of this Act, and the Costs and Charges to be incurred for the Time, Trouble, Journies, Attendances, and Expences of the said Commissioner and Surveyor, and of the Clerk, Assistants, Officers, and Servants to be employed by the said Commissioner in or about the Execution of the said recited Acts and this Act, and all other the Costs and Charges to be incurred by the said Commissioner in execution of the said recited Acts and this Act; be it further enacted, That it shall be lawful for the said Commissioner and he is hereby required, as soon as conveniently may be after the passing of this Act, and from Time to Time as he shall find it expedient, to sell and dispose of, either by public Auction or private Contract, as well such and so many and such Parts and Parcels of the said several Encroachments or Inclosures which have been made or taken in, upon, or from the said Commons, Drovers, Banks, and Waste Lands within Twenty Years last past before the passing of this Act, or any of them, as also such other Parts and Parcels of the said Commons, Drovers, Banks, and Waste Lands, and of the Site, Bed, and Banks of the said ancient Sewer or Watercourse above mentioned or referred to, as the said Commissioner shall deem necessary or expedient for raising Money sufficient for or towards defraying and discharging the several

Costs,

Costs, Charges, and Expences aforesaid, and every or any of them; and the Purchase Monies to arise by all such Sales shall be paid into the Hands of the said Commissioner, and shall be by him applied in or towards defraying and discharging the said several Costs, Charges, and Expences, and every or any of them; and the several Receipts of the said Commissioner for such respective Purchase Monies shall be sufficient Discharges to the respective Purchasers for the same; and upon Receipt of the whole Purchase Money for any of the Premises which shall be so sold as aforesaid the said Commissioner shall and he is hereby authorized to grant and convey the said Premises, and the Fee Simple and Inheritance thereof in Possession, by One or more Deed or Deeds under his Hand and Seal, unto and to the Use of or in Trust for the Purchaser thereof, and his or her Heirs and Assigns, or unto, upon, and for such Uses, Trusts, and Purposes as such Purchaser shall direct; and immediately upon and after the Execution of such Deed or Deeds by the said Commissioner the Premises therein described and thereby granted and conveyed, with their Appurtenances, shall become vested as Freehold of Inheritance in such Purchaser, and his or her Heirs and Assigns, or in such other Person or Persons, and unto, upon, and for such Uses, Trusts, and Purposes, as in and by such Deed or Deeds shall be mentioned, expressed, and declared; and every or any such Conveyance may be in the following Form, or to the like Effect; (that is to say,)

‘ **I** the Commissioner acting in execution of an Act of Parliament passed in the Fourth Year of the Reign of King *William* the Fourth, intituled [*here insert the Title of this Act*], by virtue of the Power and Authority to me given by the said Act, and in consideration of the Sum of \_\_\_\_\_ paid into my Hands by \_\_\_\_\_ which said Sum is the whole Purchase Money agreed to be paid by him to me for the Purchase of the Lands and Hereditaments herein-after described, being Part and Parcel of the Lands by the said Act authorized to be sold and disposed of by me, and is to be by me applied and disposed of in the Manner directed by the said Act, and the Receipt of which said Sum I do hereby acknowledge, do by this Deed under my Hand and Seal, by the Direction of the said \_\_\_\_\_ testified by his Execution of these Presents, grant and convey unto his Heirs and Assigns, all that [*here describe the Premises*], together with the Appurtenances to the said Premises belonging, and the Fee Simple and Inheritance thereof in Possession, to have and to hold the same unto the said \_\_\_\_\_ his Heirs and Assigns [*here state the Uses, Trusts, or Purposes of the Conveyance, as the Case may require*].  
‘ Dated this \_\_\_\_\_ of \_\_\_\_\_ in the Year of our Lord \_\_\_\_\_’

Form of  
Conveyances.

And all such Purchase Monies as shall be from Time to Time raised or received by the said Commissioner by such respective Sales as aforesaid shall, after Payment of the Charges and Expences attending such respective Sales, be paid and applied by the said Commissioner for and towards defraying and discharging the several Costs, Charges, and Expences herein-before mentioned and referred to; and the respective Purchasers or other Persons paying the same shall not in any Manner be liable to see to the Application, or be answerable for any Misapplication thereof.

XXXI. Provided always, and be it further enacted, That the said Commissioner shall and he is hereby required, before he shall sell by public Offers by private Contract to be

made in certain Cases.

public Auction or private Contract any Encroachment or Inclosure which before the passing of this Act shall have been made or taken in, upon, or from the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, within Twenty Years last past, and before Ten Years last past next before the passing of this Act, to make an Offer in Writing of such Encroachment or Inclosure for Sale by private Contract to the Person or Persons in the actual Possession of the same Encroachment or Inclosure at the Time of the passing of this Act, at such Price or Value as the said Commissioner shall put thereon, and such Person or Persons so in Possession shall have the Option of taking the same at such Price or Value accordingly; and in case any such Person or Persons so in Possession shall for the Space of Twenty-one Days after any such Offer by the said Commissioner as aforesaid neglect or refuse to take and purchase the same at such Price or Value as aforesaid, then the said Commissioner shall and he is hereby empowered and required, before he shall sell by public Auction or private Contract any such before-mentioned Encroachment or Inclosure, as well as any other Encroachments or Inclosures which shall have been made or taken in, upon, or from the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, within Ten Years last past before the passing of this Act, as also any other Parts or Parcels of the said Commons, Drovers, Banks, and Common or Waste Lands, to make a like Offer in Writing of every such first-mentioned Encroachment or Inclosure, as also of such last-mentioned Encroachments or Inclosures, Parts or Parcels of the said Commons, Drovers, Banks, and Common or Waste Lands, for Sale by private Contract to the Proprietor and respective Proprietors of the old Inclosures immediately adjoining or near to the said last-mentioned Encroachments or Inclosures, Parts or Parcels of the said Commons, Drovers, Banks, and Common or Waste Lands, at such Price or Prices, or Value or Values, as the said Commissioner shall put on the same respectively, and such Proprietor or respective Proprietors shall have the Option of taking the same at such Price or Prices or Value or Values accordingly; and in case any such Proprietor or Proprietors respectively shall for the Space of Twenty-one Days after such Offer or respective Offers by the said Commissioner as last aforesaid neglect or refuse to take and purchase the Encroachment or Inclosure, Encroachments or Inclosures, Parts or Parcels of the said Common, Drovers, Banks, and Common or Waste Lands, so offered to him and them respectively at the Price or Prices or Value or Values so set on the same respectively, then the said Commissioner shall and he is hereby authorized and empowered to sell and dispose of every such Encroachment, Inclosure, Part or Parcel of the said Commons, Drovers, Banks, and Common or Waste Lands so neglected or refused to be taken and purchased as last mentioned, by public Auction or private Contract, to any other Person or Persons willing to become the Purchaser or Purchasers thereof, or of any Part or Parts thereof, in such Manner as is in and by this Act first before mentioned in respect to any such Sale or Disposition.

Purchasers to be subject to the Orders of the Commissioner.

XXXII. And be it further enacted, That the several Persons who shall become the Purchasers of the said several Encroachments, Inclosures, and other Parts and Parcels of the said Commons, Drovers, Banks, and Common or Waste Lands so to be sold and disposed of by the said Commissioner as aforesaid, and their respective Heirs and Assigns, shall be



be subject and liable to the making and keeping in repair such and so much of the several Fences thereof as shall be directed by the said Commissioner, and also to the Observance and Performance of all such Orders, Regulations, and Directions as shall be made, laid down, directed, or appointed by the said Commissioner in and by his Award, or any other Writing under his Hand, in like Manner as if such Premises respectively had been allotted to such respective Purchasers for or in respect of any Right or Interest in, over, or upon the said Commons, Drovers, Banks, and Waste Lands, except only that such respective Purchasers shall not be liable to the Payment of any of the Charges or Expences of obtaining this Act, or of carrying the same into execution, other than the Charges of making and keeping in repair such Fences as aforesaid.

XXXIII. And be it further enacted, That in case the Monies arising by all such Sales as shall be made by the said Commissioner as aforesaid shall not be sufficient to defray all the Costs, Charges, and Expences to which the same are herein made applicable, then the Deficiency shall be rated, assessed, and charged by the said Commissioner upon the several Owners of ancient Commonable Messuages and Tofts in the Parish of *Elm* aforesaid who shall have proved or established their Claims to Right of Common in, upon, or over the said Commons, Drovers, Banks, and Waste Lands, or any Part or Parts thereof, before the said Commissioner at any Meeting held by him for ascertaining such Rights or otherwise; and such Deficiency shall be raised and paid by such several Owners in such Shares and Proportions, within such Time or respective Times, and to such Person or Persons, as the said Commissioner shall from Time to Time by any Writing or Writings under his Hand direct or appoint; and in case any Person or Persons who shall be directed to pay any Sum of Money pursuant to such last-mentioned Direction or Appointment of the said Commissioner shall refuse or neglect to pay the same, or his, her, or their Share or Proportion or respective Shares or Proportions thereof, to the Person authorized by the said Commissioner to receive the same, within the Time to be appointed by him for the Payment thereof, or at any Time afterwards upon Demand, the same shall and may be levied and recovered in the Manner directed by the said recited Acts or either of them, or by Distress and Sale of any of the Goods or Chattels of the Person or Persons refusing or neglecting to pay the same, by virtue of a Warrant in Writing under the Hand of the said Commissioner directed to any Person or Persons in that Behalf; and all such Monies as shall from Time to Time be so rated, assessed, charged, levied, and recovered as aforesaid shall be paid to the said Commissioner, and shall be applied by him for and towards defraying the several Costs, Charges, and Expences to which the Monies arising by such Sales as aforesaid are herein-before directed to be applied.

Deficiency  
of Money to  
be made good  
by a Rate.

XXXIV. And be it further enacted, That in case any surplus Money shall remain after all such Costs, Charges, and Expences as aforesaid shall have been fully paid and satisfied, such surplus Money shall be divided, apportioned, and paid by the said Commissioner between and unto the several Persons interested in the said Commons, Drovers, Banks, and Waste Lands, in respect of Rights of Common thereon, according to their respective Rights and Interests therein; and the proportional Shares

Application  
of surplus  
Money.

[Private.]

of such Surplus to which any Proprietors being Tenants in Fee Simple or Customary Tenants of Inheritance in Fee shall be entitled shall be paid to such Proprietors respectively, but the proportional Shares of such surplus Money to which any Proprietors not being Tenants in Fee Simple or Customary Tenants of Inheritance in Fee as aforesaid shall be entitled shall be applied and disposed of by the said Commissioner in the same Manner as is directed by this Act in relation to any Money hereby or by the said first-recited Act directed or authorized to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and to be laid out in the Purchase or Exchange of other Lands, Tenements, or Hereditaments to be settled to the same Uses; or in case such surplus Money shall not amount in the whole to the Sum of Fifty Pounds, it shall be lawful for the said Commissioner to order and direct the Payment and Application thereof for or towards the Improvement of any Part or Parts of the said Commons, Drovers, Banks, or Waste Lands, or of any Allotment or Allotments to be made by him thereon, or of any Road, Way, Fence, Bridge, Tunnel, Drain, or Watercourse upon or in the same.

Power for  
Commis-  
sioner to bor-  
row Money.

XXXV. And be it further enacted, That in case, before the several Monies herein-before authorized to be raised by the said Commissioner can be raised and received by him, he shall find it necessary or expedient to obtain by Loan any Sum or Sums of Money for or towards defraying the Costs, Charges, and Expences aforesaid, or the Compensation or Purchase Money to be paid to the Receiver General of the Governor, Bailiffs, and Commonalty of the Company of Conservators of the said Great Level of the Fens as herein-after mentioned, it shall be lawful for the said Commissioner to borrow and take up at Interest from any Person or Persons willing to advance and lend the same such Sum or Sums of Money as he shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the said Commissioner, with Interest for the same, out of the Monies to be raised and received by him from such Sales or other Means as aforesaid.

Allotments  
for Materials.

XXXVI. And be it further enacted, That the said Commissioner shall, if he shall think fit, set out and allot unto the Surveyor or Surveyors for the Time being of the Highways within the Parish of *Elm* aforesaid, and to their Successors for ever, such Parcel or several Parcels of the said Commons, Drovers, Banks, and Waste Lands hereby directed to be inclosed, divided, and allotted, as he the said Commissioner shall think necessary and most convenient, as an Allotment or Allotments for supplying Materials for the Repairs of the several Roads and Ways to be appointed or set out by him in, upon, or over the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, and of the several other public Roads and common Highways within the said Parish; and such Allotment or several Allotments shall be inclosed and fenced in such Manner as the said Commissioner shall direct, and when set out and allotted shall at all Times thereafter be considered and deemed to be absolutely vested in the Surveyor or Surveyors for the Time being of the Highways within the said Parish of *Elm*, and their Successors for ever, for and towards the Repair and Benefit of the several Roads and Ways to be appointed and set out by the said Commissioner in, upon, or over the

said Commons, Drovers, Banks, and Waste Lands, and the several other public Roads and common Highways within the said Parish.

XXXVII. And be it further enacted, That the said Commissioner shall, if he shall think fit, set out and allot unto the Churchwardens and Overseers of the Poor of the said Parish of *Elm* such Parcel or several Parcels of the said Commons, Drovers, Banks, and Waste Lands as he the said Commissioner shall think necessary and most convenient as an Allotment or Allotments for supplying the Inhabitants of the said Parish with Water through the digging of Pits or sinking of Wells therein; and that such Churchwardens and Overseers of the Poor shall hold the said Allotment or Allotments (if any) in Trust for the Use of the said Inhabitants, and for such Purpose of supplying Water as is herein-above specified.

Allotment  
for Pits or  
Wells.

XXXVIII. And be it further enacted, That the said Commissioner, after he shall have appointed and set out such Parts of the said Commons, Drovers, Banks, and Waste Lands as he shall think necessary for the said Roads and Ways by the said recited Acts and this Act, or any of them, directed or authorized to be set out, and after he shall have set out the several Allotments which he shall think necessary for supplying Materials for the Repairs of Roads and Ways, and for Pits and Wells, and the several Lands and Allotments for Sale as herein-before directed, shall and he is hereby authorized and required to set out and allot unto and for the Lord of the said Manor of *Wisbech Barton* so much and such Part and Parts of the said Commons, Drovers, Banks, and Waste Lands hereby directed to be inclosed, divided, and allotted as shall in the Judgment of the said Commissioner be equal, together and in the whole, to One Sixteenth Part in Value of the Residue of the said Commons, Drovers, Banks, and Waste Lands which shall remain after such Roads and Ways, and Allotments for Materials and for Sale, shall have been set out as aforesaid, as a Compensation and Satisfaction for his Right and Interest as Lord of the Manor to and in the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, and to and in the Soil of the same or any Part thereof; and the several Hedges, Ditches, and Fences of the said several last-mentioned Allotments shall be made, and at all Times maintained and repaired, by and at the Expence of such several Persons as the said Commissioner shall by his Award order and direct.

Allotments  
for Manorial  
Rights.

XXXIX. And be it further enacted, That the said Commissioner shall in the Manner directed by the said recited Acts and this Act ascertain and determine the several Commonable Messuages and Tofts which at the Time of the passing of this Act shall have or be entitled to have a Right of Common in, upon, and over the said Commons, Drovers, Banks, and Waste Lands, and the several Owners or reputed Owners of such Commonable Messuages and Tofts respectively; and after setting out the several Roads and Ways, and Allotments for the Repair of Roads and Ways, and for Pits and Wells, and the said Allotments for Sale, and the said Allotments in lieu of the Right of Soil, the said Commissioner shall and he is hereby required to set out and allot unto and amongst the several Owners of Rights of Common in, upon, or over the said Commons, Drovers, Banks, and Waste Lands in respect of the said several Commonable Messuages and Tofts which shall have been ascertained and determined by the said Commissioner, or by a Verdict or Judgment in any Action at Law as aforesaid,

Allotment  
of Residue  
of Lands to  
the Owners  
of Common  
Rights.

to.

to have or be entitled to Right of Common thereon as aforesaid, all the Residue and Remainder of the said Commons, Drovers, Banks, and Waste Lands lying within the Boundaries of the Parish of *Elm* aforesaid which shall remain after setting out such Roads and Ways and Allotments as aforesaid, in such Shares and Proportions as the said Commissioner shall adjudge and determine to be proportionate to the Value of a full Compensation and Satisfaction to him, her, and them respectively for his, her, and their respective Rights and Interests in, to, over, and upon the said Commons, Drovers, Banks, and Waste Lands respectively by this Act directed or authorized to be inclosed, divided, and allotted.

The Tithes belonging to the Rector and Vicar not to be affected by this Act.

XL. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to affect the Right, Title, or Interest of the Rector and Vicar of the said Parish, or either of them, to or in the Tithes to arise or accrue or become due in, upon, or out of the said Commons, Drovers, Banks, and Waste Lands hereby intended to be inclosed, divided, and allotted, or to the Exoneration or Discharge of the same from the Payment of such Tithes, or of, in, or to any Moduses or Compositions in lieu of Tithes payable out of or from such Lands, Tenements, or Hereditaments for or in respect of which no Satisfaction and Compensation shall be made, but all such Tithes and Moduses shall respectively remain, continue, and be in full, in such and the like Manner as if this Act had not been passed, to the said Rector and Vicar respectively, and their Successors, Rectors and Vicars of the said Parish of *Elm*.

Power of Exchange.

XLI. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Elm* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the said Parish of *Elm*, or any adjoining Parish or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, 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 Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless; that no Exchanges shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel or other Ecclesiastical Benefice without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese

Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided always, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Persons making such Exchanges in such Shares and Proportions, and at such Time, and to such Person or Persons, as the said Commissioner shall by any Writing under his Hand direct or appoint.

XLII. And be it further enacted, That every Person to whom any Copyhold Lands or Tenements shall be allotted in Exchange or upon Partition as aforesaid shall as soon as conveniently may be, and at all Events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioner, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Hereditaments shall be respectively held, be admitted Tenant of the Copyhold Lands or Tenements so allotted; but in no such Case of any Admission by virtue of this Act shall any Fine, Rent, Heriot, Fees, or other Payments be made to the Lord or Lords, Lady or Ladies of the said Manors respectively, or to his, her, or their Steward or Stewards, save only the Sum of Two Pounds and Two Shillings to such Steward or Stewards for the Fees of such Admission, over and besides the Stamp Duty payable by Law upon each such Admission.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

XLIII. And be it further enacted, That from and after the setting out of the several Roads and Ways aforesaid, and the inclosing, dividing, and allotting of the said Commons, Drovers, Banks, and Waste Lands by this Act authorized and directed to be inclosed, divided, and allotted, it shall and may be lawful to and for the Churchwardens and Overseers of the Poor of the said Parish of *Elm* for the Time being, and they are hereby authorized and empowered, from Time to Time to let, for the Purpose of being depastured with Sheep only, the Grass and Herbage growing and renewing upon and by the Sides of all and every or any of the said Roads and Ways (save and except upon and by the Sides of any Turnpike Road or Roads) for the best Rent and Rents that can be reasonably had or gotten for the same Grass and Herbage, or any Part or Parts thereof respectively, and from Time to Time annually to pay, apply, and distribute all the Rents to arise therefrom unto and for the Benefit of the poor Inhabitants of the said Parish in such and the same Manner, and for such and the same Purposes in all respects, as the Rents and Profits arising from or in respect of a certain Common or Fen called *Crowmeer Common*, herein-after mentioned, now are and in future shall be paid, applied, and distributed.

Herbage of Roads and Ways may be let.

XLIV. And be it further enacted, That the several Allotments herein-before directed to be made and set out unto or for any Bodies, Persons, or Purposes whatsoever shall be respectively inclosed and fenced in such Manner as the said Commissioner shall think fit and direct; and the Expences of inclosing and fencing the same, and of making, repairing, maintaining, and supporting the Fences thereof, shall be borne and paid by the several Owners of or other Persons interested in the said Allotments respectively in such Parts and Proportions, and within such Time or several Times, and in such Manner, as the said Commissioner shall in and by his Award, or by any other Writing under his Hand, order or direct.

Direction as to fencing Allotments.

[Private.]

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XLV. And

This Act or the Commissioner's Award not to affect Settlements, &c.

XLV. And be it further enacted, That nothing in this Act contained, or in the Award of the said Commissioner to be contained, shall extend or be construed to extend to revoke, make void, impeach, annul, alter, or prejudice any Settlement, Will, Mortgage, Deed, or other Instrument whatsoever, or to prejudice any Person having or claiming any Right to or Claim of Dower, Jointure, Curtesy, Portion, Debt, Charge, or Incumbrance whatsoever in, out of, upon, or affecting any Commonable Messuage or Toft to which any such Right of Common as aforesaid doth or shall belong, or such Common Right belonging thereto; but the said several Commonable Messuages and Tofts, and the said Common Rights belonging thereto respectively, shall after the passing of this Act be, remain, and enure, and be held and enjoyed, to and for such and the same Uses and Estates, and with and under such and the same Powers and Authorities, and subject to such and the same Limitations, Conditions, Trusts, Provisoos, Debts, Charges, and Incumbrances, as the said several Commonable Messuages and Tofts were and stood respectively limited or subject and liable unto at the Time of the passing of this Act.

Common Rights to be of the same Tenure as the Messuages and Tofts, and to be sold together with or separately therefrom.

XLVI. And be it further enacted, That the said several Rights of Common belonging to or in respect of the said several Commonable Messuages and Tofts which shall be determined by the said Commissioner, or by a Verdict or Judgment in any Action at Law, to have or be entitled to Rights of Common in, upon, or over the said Commons, Drovers, Banks, or Waste Lands, shall at all Times hereafter be, remain, and continue of the same respective Tenures, and be held of the said Manor, and by and under the same several Fines, Customs, and Services, and proportionate Parts of Rents, as the respective Commonable Messuages and Tofts to which such Rights of Common respectively belong are held of, by, and under; and it shall be lawful for any Person or Persons who shall from Time to Time be entitled to any such Commonable Messuage or Toft, or any such Common Right belonging thereto, to sell, dispose of, give, grant, bargain, sell, mortgage, demise, limit, surrender, convey, or assure such Commonable Messuage or Toft, and such Common Right belonging thereto, or either of them, and all Benefit and Advantage thereof respectively, either together or separate and distinct from each other, to any Person or Persons, for all or any Part of his, her, or their Estate or Interest therein or Right thereto, at any Time either before or after the Execution of the Award of the said Commissioner; and every such Gift, Grant, Bargain, Sale, Mortgage, Demise, Limitation, Surrender, Conveyance, and Assurance shall be good, valid, and effectual to all Intents and Purposes whatsoever; and the said Commissioner shall and he is hereby authorized by his Award to award every such Common Right which shall have been conveyed or assured, or sold or contracted to be sold, to any Person or Persons before the Execution of his said Award, upon Notice in Writing given to him of such Conveyance or Assurance or Sale or Contract for Sale thereof, unto and for the Person or Persons to whom the same shall have been so conveyed or assured or sold or contracted to be sold, instead of the original Owner thereof.

Allotments to be subject to Sewers and Drainage Rates.

XLVII. And be it further enacted, That the several Allotments to be set out and allotted by the said Commissioner in or upon the said Commons, Drovers, Banks, and Waste Lands, or any Part thereof, by virtue of

of this Act, shall from Time to Time, from and after the same shall have been set out and allotted by the said Commissioner, become and be subject and liable to such and the same several yearly proportionate Sewers Rates, Bank Rates, Drainage Rates, and Acre Shots, and to such and the same several Powers and Remedies for the Recovery and Payment thereof respectively, and to such and the same several Securities and Charges upon the said Rates respectively, as the several other Lands and Grounds lying in the same respective Districts in which such Allotments shall respectively lie shall from Time to Time be respectively subject and liable to.

XLVIII. And be it further enacted, That whenever any Sum of Money is, under the Provision of the said first-recited Act or of this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioner out of such Sum to defray such Proportion (if any) of the Expences of obtaining and passing this Act, and of carrying the same and the said recited Acts into execution, as shall be charged upon any of the Lands, Tenements, or Hereditaments of the Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvements in building, fencing, subdividing, draining, or planting which shall in the Judgment of the said Commissioner be proper to be made, and shall be made under his Direction or with his Approbation, upon any Lands which shall by virtue of this Act be allotted to such Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioner for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall when

Application of Compensation Money to incapacitated Persons if amounting to 200*l*.

1G. 4. c.35

so paid in there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts or other Incumbrances, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith to, for, or upon the same or the like Uses, Trusts, Intents, and Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall upon the like Application be laid out in a summary Way, by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the before-mentioned Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime and until such Order can be made the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or on Government or Real Securities; and in the meantime, and until the said Bank Annuities or Government or Real Securities shall be ordered by the said Court to be sold, or the Monies due thereon to be called in for the Purposes aforesaid, the Dividends or Interest and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled.

If less than  
200*l.* and  
exceeding  
20*l.*

XLIX. And be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy, Lunacy, or other Incapacity, with the Approbation of the said Commissioner to be signified under his Hand, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Person or Persons who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, such Nomination to be approved of by the said Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties; and the Money so paid to such Trustees, and the  
Interest



Interest, Dividends, and Produce arising thereon and therefrom, shall be by them applied in like Manner as herein-before directed with respect to the Money so to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

L. And be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiocy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto. If less than 20l.

LI. And be it further enacted, That as soon as conveniently may be after the said Inclosure, Division, and Allotment shall be completed the said Commissioner shall form and draw up an Award in Writing under his Hand and Seal containing and comprising therein the several Determinations, Directions, and Orders of the said Commissioner, and all such other Matters and Things relating to the Inclosure, Division, and Allotment of the said Commons, Drovers, Banks, and Waste Lands as shall be necessary and proper to be inserted therein; which said Award, together with a proper Plan annexed thereto, shall within Thirty Days after the Execution thereof be delivered to the Clerk of the Peace for the said *Isle of Ely*, who is hereby required to receive the same, and to deposit and keep the same among the Records of the said *Isle*, for the Reception and Deposit whereof the Fee of Two Pounds and Two Shillings and no more shall be paid to him; and the Inspection and Perusal of the said Award shall at all seasonable Times be allowed by the said Clerk of the Peace to any Person or Persons whomsoever on Payment to him of the Sum of One Shilling for each Inspection and Perusal; and the said Award and Plan shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be inrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award and of the said Plan, being severally made on plain Paper or Parchment, and signed by the said Commissioner, shall within the Time aforesaid be deposited in the Parish Church of *Elm* aforesaid, and there kept, under the Care and Direction of the Churchwardens of the Parish of *Elm* aforesaid for the Time being, in a proper Box to be provided for that Purpose; and the said Award and Plan, and the said Copy thereof so authenticated by the Signature of the said Commissioner, and any other Copy of the said Award and Plan, or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said *Isle* or his Deputy, (which Copy the said Clerk of the Peace or his Deputy is hereby required to make and deliver to any Person or Persons requiring the same, and for every Sheet of which containing One hundred Words the Sum of Sixpence and no more shall be paid to him,) shall from Time to Time and at all Times be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts and Places whatsoever. Award.

[*Private.*]

Accounts to be allowed by Justices, and published.

LII. And be it further enacted, That once at least in every Three Calendar Months from the Day of the passing of this Act, during the Execution thereof by the said Commissioner, he the said Commissioner shall and he is hereby required to make a true and particular Statement and Account in Writing of all Sums of Money by him received and expended or applied in the Execution of this Act, and of the particular Purposes in or for which the same shall have been respectively received, expended, and applied, and of all Sums of Money which shall be due and unpaid to and from the said Commissioner, or to or from any other Person or Persons for or in the Execution of this Act, so far as he can set forth the same; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be laid by the said Commissioner before Two of His Majesty's Justices of the Peace for the said *Isle of Ely* (not interested in the said Inclosure, Division, and Allotment,) assembled in Petty Sessions, to be by them examined, balanced, and allowed, and the Allowance thereof shall be signed by such Justices; and an Abstract of such Accounts shall from Time to Time, within Fourteen Days next after the same shall have been so allowed as aforesaid, be published in the *Cambridge Chronicle*, or in some other Newspaper usually circulated in the said *Isle of Ely*; and no Charge in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been so allowed, and an Abstract thereof published as aforesaid: Provided always, that the said Commissioner shall cause Notice in Writing of the Time and Place when such Accounts are intended to be laid before the said Justices to be affixed upon the principal outer Door of the Parish Church of *Elm* aforesaid before Divine Service on Two *Sundays* previous thereto.

Power of Appeal to the Quarter Sessions.

LIII. And be it further enacted, That if any Person shall think himself or herself aggrieved by any Act done or omitted to be done by the said Commissioner, or by any other Person or Persons; in pursuance or under the Authority of the said recited Acts and this Act, or any of them, other than and except in those Cases in which the Determinations, Acts, or Proceedings of the said Commissioner or such other Person or Persons are by the said recited Acts and this Act, or any of them, declared to be final and conclusive, or in which any Question is to be tried by an Issue at Law under the Provisions of the said recited Acts and this Act, or any of them, such Person so thinking himself or herself aggrieved may, within Four Calendar Months next after the alleged Cause of Complaint shall have arisen, or within Six Calendar Months next after the Delivery of the said Award of the said Commissioner to the Clerk of the Peace for the said *Isle of Ely*, if the alleged Cause of Complaint shall relate to the Accounts of the said Commissioner, (notwithstanding the previous Allowance of such Accounts as aforesaid,) appeal to the Justices at the General Quarter Sessions of the Peace to be holden in and for the said *Isle of Ely*, or at any Adjournment thereof, first giving to the Person or Persons intended to be appealed against, or interested in the Matter of Appeal, and to the Clerk of the said Commissioner in case the Appeal shall be made against any Act or Determination of the said Commissioner, Ten Days Notice in Writing of such intended Appeal and of the Matter in respect of which the same is intended to be made; and the said Justices (not being interested in the Premises) shall hear and determine the said Appeal

Appeal and the Subject Matter thereof at such General Quarter Sessions or Adjournment thereof, or, if they shall think proper, may adjourn the hearing thereof to the then next General Quarter Sessions of the Peace or Adjournment thereof to be holden for the said Isle; and the said Justices; on the hearing and determining of every such Appeal, may make such Order thereon, and award such Costs to be paid by and to the respective Parties to the said Appeal, or any of them, as they the said Justices shall think just and proper, and may at their Discretion discharge or mitigate all or any of the Penalties or Forfeitures (if any) incurred by any of the Parties; and the Determination and Order of the said Justices in the Premises at any such General Quarter Sessions or Adjournment thereof shall be final, binding, and conclusive upon all Parties, and to all Intents and Purposes whatsoever, and shall not be removed by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere; and in case any such Costs as shall be awarded by the said Justices shall not be paid pursuant to their Order for the Payment thereof, they shall cause the same to be levied by Warrant under the Hands and Seals of them the said Justices, or any Two or more of them, by Distress and Sale of the Goods and Chattels of the Person or Persons who by their said Order shall be liable to the Payment thereof, rendering the Overplus (if any) of the Money to be levied by such Distress and Sale, after Payment of the Costs and Charges to be incurred in and about the same, to the Owner or Owners of such Goods and Chattels.

LIV. And be it further enacted, That all Penalties, Fines, Forfeitures, Damages, Costs, and Charges respectively imposed or made payable by this Act or by the said recited Acts, or either of them, so far as the same are respectively applicable to the Purposes of this Act, the Payment, Application, or Disposal whereof is not by this Act otherwise directed, authorized, or provided for, shall be paid, applied, and disposed of for and towards defraying the Charges and Expences of carrying this Act into execution, or any of them.

Application  
of Penalties.

LV. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the present or any future Lord of the said Manor of *Wisbech Barton* of, in, and to the Seigniories, Rights, and Services incident or belonging to the said Manor respectively, but the Lord of the said Manor for the Time being shall and may from Time to Time and at all Times hereafter hold, receive, take, and enjoy all Rents, Fines, Services and Profits of Courts, and all other Rights and Privileges to such Manor respectively belonging (save and except such Right of Soil as shall have been compensated for by or under the Provisions of this Act), in as full, ample, and beneficial a Manner to all Intents and Purposes as he or they respectively might or ought to have held and enjoyed the same in case this Act had not been passed.

Saving of  
Manorial  
Rights.

LVI. And whereas the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level* have or claim to be entitled to some Right and Interest in, over, and upon the Site, Bed, and Banks of a certain ancient Sewer or Water-course

Power for  
Commis-  
sioner to pur-  
chase the Site,  
Bed, and  
Banks of a

certain ancient Sewer called Elm Leam.

course formerly and still called *Elm Leam* or *Elm River*, situate in the Parish of *Elm* aforesaid, commencing at a Place in the said Parish called *Friday Bridge*, immediately next adjoining to the Estates of Sir *Henry Peyton* Baronet and *Hugh Jackson* Gentleman, and extending in a Northernly Direction towards and unto the Garden of *Mary Plowright* in the said Parish, lying North of the *Freeschool* Garden near to the *Wisbech* Canal, and containing in length One Mile and Six Furlongs or thereabouts, and which said ancient Sewer or Watercourse for a Period long beyond living Memory has been discontinued as a Work of Drainage for any Part of the said Great Level, or any Lands or Grounds adjoining or near thereto, and in many Parts thereof is now and for several Years past has been landed and grown up, and the said Site, Bed, and Banks have been much encroached upon by the Owners and Occupiers of contiguous Estates and others, and Cottages and other Buildings have been erected thereon: And whereas the Execution of the Powers and Authorities granted by this Act, in so far as regards certain Parts of the Commons, Banks, Drovers, and Waste Lands adjoining and lying near to the said ancient Sewer or Watercourse, will be facilitated if the Site, Bed, and Banks of the said ancient Sewer or Watercourse, or such Parts thereof as can be made available for the Purposes of this Act, were considered Part of the Commons, Drovers, Banks, and Waste Lands by this Act authorized to be inclosed, divided, and allotted, freed and exonerated from all such Claim, Right, and Interest as above mentioned: And whereas the said Governor, Bailiffs, and Commonalty of the Company of Conservators of the said Great Level have, on Application made to them by and on behalf of the Owners of ancient Commonable Messuages and Tofts in the Parish of *Elm* aforesaid, consented and agreed to give up and relinquish all Claim, Right, and Interest whatsoever belonging to or vested in them in, to, over, or upon the said ancient Sewer or Watercourse, and the Site, Bed, and Banks thereof, on being paid the Sum of Fifty Pounds by way of Compensation for such Claim, Right, and Interest; be it therefore further enacted, That from and after the passing of this Act, and immediately on Payment by the said Commissioner, or by any Person for and on behalf of the said Owners of ancient Commonable Messuages and Tofts in the Parish of *Elm* aforesaid, of the said Sum of Fifty Pounds to the Receiver General for the Time being of the said Governor, Bailiffs, and Commonalty of the Company of Conservators of the said Great Level, (who is hereby authorized to accept and give a Receipt for the said Sum in Satisfaction of and Compensation for all such Claim, Right, and Interest as above mentioned,) all the Estate, Right, Title, Interest, Property, Claim, and Demand whatsoever of the said Governor, Bailiffs, and Commonalty of the Company of Conservators of the said Great Level, and of their Successors of, in, to, over, upon, and out of the said ancient Sewer or Watercourse, and the Site, Bed, and Banks thereof, situate between the respective Places above mentioned, and every Part of the same shall cease and be for ever extinguished; and that from and immediately after such Payment being made, and such Receipt being given as aforesaid, the said ancient Sewer or Watercourse, and the Site, Bed, and Banks thereof, and every Part of the same, situate between the respective Places above mentioned, or such Part and Parts of the same Site, Bed, and Banks as consistently with the Powers and Authorities granted by this Act can be made available for the Purposes thereof, shall be deemed and considered

to be Part of the Commons, Drovers, Banks, and Waste Lands within the Parish of *Elm* aforesaid authorized to be inclosed, divided, and allotted, or sold and disposed of, under and by virtue of this Act.

LVII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to take away, defeat, invalidate, lessen, alter, or affect in anywise howsoever any of the Jurisdictions, Powers, Rights, or Privileges belonging to or vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level* under and by virtue of any Law, Statute, Decree, or Usage whatsoever heretofore made, passed, or used, save and except such Claims, Rights, and Interests as shall have been compensated for under the Provisions of this Act, but the same Jurisdictions, Powers, Rights, and Privileges so belonging to or vested in them immediately before the passing of this Act, save and except as aforesaid, shall remain, continue, and be to all Intents and Purposes as full, ample, and beneficial as if this Act had not been passed:

Saving of Rights of Bedford Level Corporation.

LVIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to defeat, invalidate, lessen, alter, take away, or in anywise howsoever prejudice any of the Rights, Powers, and Authorities vested in any Person or Persons whomsoever by virtue of any Commission of Sewers for the Hundred of *Wisbech* and Parts adjacent, or by virtue of any Act or Acts passed for the Drainage of any Lands and Grounds lying within the Boundaries of *Elm* aforesaid, or any of them, (save and except such, if any, as are by this Act expressed or intended to be lessened, altered, or taken away,) but all such Rights, Powers, and Authorities (except as aforesaid) shall be and continue as full, ample, and effectual to all Intents and Purposes as if this Act had not been passed.

Saving of Rights of Commissioners of Sewers and Drainage.

LIX. Provided also, and be it further enacted, That it shall not be lawful for the said Commissioner, or any Person acting by or under his Direction, to divide, allot, inclose, or in any way interfere with a certain Common or Fen in the Parish of *Elm* aforesaid commonly called or known by the Name of *Crowmeer Common*, containing by Estimation Forty-five Acres or thereabouts, but that the same Common or Fen shall, from and after the passing of this Act, remain, continue, and be vested as heretofore in the Churchwardens and Overseers of the Poor of the Parish of *Elm* aforesaid for the Time being, to be by them from Time to Time let, and the Rents and Profits thereof paid, applied, and distributed annually as they now are unto and for the Benefit of the poor Inhabitants of the Parish aforesaid, and the said Commissioner shall in and by his said Award declare and order the same to remain uninclosed as if this Act had not been passed, any thing herein contained to the contrary notwithstanding.

Crowmeer Common not to be interfered with.

LX. Provided also, and be it further enacted, That this Act or any thing herein contained shall not extend or be construed to extend to authorize the said Commissioner, or any Person acting by or under his Direction, to inclose, divide, and allot, or to exercise any Act or Authority in, upon, or over, or otherwise interfere with, any Commons, Drovers, Banks, Waste Lands, or other Grounds situate within or bounding certain

This Act not to extend to Coldham or Waldersey.

[Private.]

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Fields

Fields or Districts being Part of the Parish of *Elm* aforesaid, and commonly called or known respectively by the Names of *Coldham* and *Waldersey*, or either of them, any thing in this Act contained to the contrary thereof in anywise notwithstanding.

Reserving  
Right of Wis-  
bech Canal  
Company.

34 G.3. c. 51.

LXI. Provided also, and be it further enacted and declared, That nothing in this Act contained shall extend or be construed to extend to the *Wisbech* Canal, or to the Towing Paths on either Side thereof, or to any of the Works thereof, or Ways or Approaches thereto, or to any Lands or Grounds lying nearer to the said Canal than at the Distance of Twenty-three Feet from every Part of the present outer Edges of the Banks thereof, nor to defeat, take away, lessen, or interfere with any of the Rights, Privileges, or Interests of the Company of Proprietors of the *Wisbech* Canal granted by an Act passed in the Thirty-fourth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for making and maintaining a Navigable Canal from Wisbech River at or near a Place called the Old Sluice, in the Town of Wisbech in the Isle of Ely and County of Cambridge, to join the River Nene in the Parish of Outwell in the said Isle of Ely and in the County of Norfolk, and for improving and maintaining the Navigation of the said River from Outwell Church to Salter's Loud Sluice*; but that the said Canal and the Towing Path on each Side thereof, and the Works thereof, and the Ways and Approaches thereto, and so much of the said Commons, Drovers, Banks, and Waste Lands in the Parish of *Elm* aforesaid as lies on each or either Side of the said Canal within Twenty-three Feet from the present outer Edges of the Banks thereof, and all other the Rights, Privileges, and Interests of the said *Wisbech* Canal Company, shall be and are hereby reserved to the said Company, and shall and may be held, possessed, and enjoyed by the said Company and their Successors and Assigns in as full, ample, and beneficial a Manner to all Intents and Purposes as the same or any of them might have been held, possessed, and enjoyed by them in case this Act had not been passed.

General  
Saving.

LXII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all Bodies Politic, Corporate, and Collegiate, Trustees, Commissioners, and other Persons, and their several Heirs, Successors, Executors, Administrators, and Assigns, all such several Estates, Rights, Titles, Interests, Claims, and Demands (other than and except such as are severally expressed or intended to be compensated for, barred, destroyed, or extinguished by this Act,) as they respectively before the passing of this Act had, held, or enjoyed to, in, from, over, upon, or in respect of the said Commons, Drovers, Banks, and Waste Lands hereby directed to be inclosed, divided, and allotted, or could or might have had, held, or enjoyed in case this Act had not been passed.

Payment of  
Expences of  
this Act.

LXIII. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act, and of the several Surveys and Plans preparatory thereto and consequential thereon, with lawful Interest for all such Monies as shall have been paid or expended by any Person or Persons whomsoever on account thereof, shall be paid and discharged by the said Commissioner by and out of the first Monies to be raised by virtue of this Act after the passing of the same.

LXIV. And' be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

Act to be  
printed by  
King's  
Printers.

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LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,  
Printers to the King's most Excellent Majesty. 1834.

