ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

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sons, are the Owners of ancient Commonable Messuages and Tofts in the Parish of *Tid Saint Giles* aforesaid, and in respect thereof are or claim to be entitled to Right of Common in, upon, and over the said Commons, Droves, Banks, and Waste Lands, or some Part or Parts thereof: And whereas there are in the Parish of *Outwell* in the *Isle of Ely* in the County of *Cambridge* a certain Common called *Cotton's Common*, containing by Estimation Ninety-eight Acres, or thereabouts, and also divers Open and Waste Lands, containing by Estimation Fifteen Acres, or thereabouts: And whereas Sir *Henry Peyton* Baronet, *William Lee* Esquire, and several other Persons, are the Owners of ancient Commonable Messuages and Tofts in the Parish of *Outwell* aforesaid, and in respect thereof are or claim to be entitled to Right of Common in, upon, and over the said Common called *Cotton's Common*, and the Open and Waste Lands of the said Parish of *Outwell*: And whereas the Right Reverend *Joseph* Lord Bishop of *Ely*, in right of his See, is or claims to be Lord of the Manor of *Wisbech Barton*, which said Manor extends into or over the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, and as such is entitled to the Soil of all the Commons, Droves, Banks, and Waste Lands within the said Manor, except of the said Common called *Cotton's Common*, which is subject to an annual Quit Rent or Sum of Twenty Shillings payable to the Lord of the said Manor of *Wisbech Barton*, but in respect of which annual Quit Rent or Sum of Twenty Shillings no Payment hath been made to the Lord of the said Manor since the Twenty-fifth Day of *March* One thousand seven hundred and sixty-four: And whereas the Sum of Seventy-seven Pounds Sterling (being the Amount of the Arrears of the said annual Quit Rent or Sum of Twenty Shillings now remaining unpaid) hath been raised by the several Persons who are or claim to be entitled to Right of Common in, upon, and over the said Common called *Cotton's Common*, or by some of the same Persons, with a view to the Application thereof in discharge of the said Arrears; and it hath been proposed by the several Persons by whom the said Sum of Seventy-seven Pounds hath been raised that immediately, or as soon as may be after the passing of this Act, the Sum of Five Pounds (Part of the said Sum of Seventy-seven Pounds) shall be paid to the said *Joseph* Lord Bishop of *Ely*, in discharge of the Arrears of the said annual Quit Rent which have become payable since his Translation to the said Bishopric, and that the Sum of Seventy-two Pounds (the Residue of the said Sum of Seventy-seven Pounds) shall be invested or applied for the Benefit of the See of *Ely* in the Manner herein-after directed: And whereas the said *Joseph* Lord Bishop of *Ely* is willing to accede to the aforesaid Proposal, and the said Sum of Seventy-seven Pounds hath been paid over to the said Bishop, and is now in his Hands, with a view to the Application thereof in the Manner so proposed as aforesaid: And whereas it would be greatly to the Advantage of the Persons interested in the said Common called *Cotton's Common*, in the said Parish of *Outwell*, if the same were divided and allotted: And whereas the said Commons, Droves, Banks, and Waste Lands in the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell* 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 little or no

Value to the several Parties entitled thereto, but are capable of considerable Improvement, 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 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 Years of the Reign of 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 Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third and in the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall from and after the passing of this Act be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

41 G. 3. c. 109.

1 & 2 G. 4. c. 23.

Recited Acts to form Part of this Act.

II. And be it further enacted, That *Robert Wright* of the City of *Norwich*, Gentleman, and his Successor for the Time being, to be elected or appointed in manner herein-after mentioned, shall be the Commissioner for carrying this Act and the said recited Acts into execution, and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Commons, Droves, Banks, and Waste Lands according to the Regulations and Provisions contained in the said recited Acts and this Act: Provided always, That no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner, and in receiving the Declaration herein-after directed,) until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act; and such Declaration shall be in lieu of the Oath or Affirmation required by the said Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds, which Declaration it shall be lawful for any Justice of the Peace of the *Isle of Ely* to administer and receive.

Appointment of Commissioner.

Qualification of Commissioner.

III. And be it enacted, That if any Person, not having so qualified himself, shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*.

Penalty on Persons acting not qualified.

IV. And be it enacted, That in case the said *Robert Wright*, or any Person to be appointed a Commissioner in his Room by virtue of this Act,

Power of appointing Commis-

sioner on Vacancies.

Act, shall die, or shall become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, 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, Droves, Banks, and Waste Lands within the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwells*, who shall attend either personally or by their respective Agents at any Meeting to be held for that Purpose (of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure, by Advertisement, and also on the Church Doors, as herein-after directed, at least Fourteen Days before such Meeting), to appoint by Writing under their Hands some fit Person to be a Commissioner in the Room of the said *Robert Wright*, or of the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment of Surveyor.

V. And be it enacted, That it shall be lawful for the Commissioner from Time to Time by Writing under his Hand to appoint a fit Person to be a Surveyor for the Purpose of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said *Isle of Ely*, to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the Commissioner.

Surveyor to make a Declaration.

Penalty on making a false Declaration.

VI. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

Appointment of Clerk.

VII. And be it enacted, That it shall be lawful for the Commissioner to appoint a Clerk to assist him in carrying this Act into execution, and from Time to Time to Time to remove such Clerk, and to appoint another in his Stead.

No Party interested to be appointed a Commissioner, &c.

VIII. And be it enacted, That no Person shall be appointed to act as a Commissioner or Surveyor in the Execution of this Act who shall be interested in the Lands to be inclosed, or shall be the Agent ordinarily intrusted with the Superintendence or Management of the Estate of any Party interested.

Allowance to Commissioner and Clerk.

IX. And be it enacted, That the Commissioner shall be paid out of the Inclosure Expences Fund the Sum of Two hundred Pounds, and no more, and the said Clerk shall be paid out of the same Fund the Sum of Three Pounds and Three Shillings for each Day he shall travel or be engaged in any Business relating to the Execution of this Act, for the first Two Years after the passing of this Act, and Two Pounds and Two Shillings *per* Day afterwards; and such Payments

ments shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journies and Attendances in the Execution of this Act, except the Expence of the Rooms in which the Meeting shall be held, and the Expence of Appeals and other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Awards, and such other like necessary Expences: Provided always, that in case the Commissioner shall die, or become incapacitated, or neglect or refuse for the Space of Two Months to act in the Execution of this Act, before the same shall be carried into full Effect, a Part and fair Proportion only of the said Sum of Two hundred Pounds shall be paid to the Commissioner, or his Representatives, according to the Time he shall have acted as Commissioner, such Proportion to be ascertained by the Auditor who shall examine and audit the Accounts of the Commissioner; and the new or succeeding Commissioner who may be appointed under the Powers of this Act shall be paid or allowed such Sum of Money as shall be agreed upon between him and 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 Lands to be inclosed within the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwells*, who shall attend personally or by their respective Agents at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure by Advertisement, and also on the Church Doors, as herein-after directed, at least Fourteen Days before such Meeting.

For regulating the Time and Manner of Payment of said Allowances.

X. Provided also, and be it enacted, That it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Calendar Months from the Day of the Date of the Awards to be made in pursuance of this Act, or in case the Accounts of the Commissioner shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or of the said Clerk previous to the Execution of the said Awards, the Commissioner for the Time shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrator of such deceased Commissioner or Clerk such Sum as shall appear by the said Accounts to be due to such deceased Commissioner or Clerk.

For regulating the Duration of Meetings of the Commissioner.

XI. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*; and where the Time occupied in going to, attending at, and returning from any

Meeting to be holden, or on other Business to be transacted, under the Provisions of this Act, shall be of less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the second Period, the same shall be charged as only Half a Day.

Allowance to Surveyor.

XII. And be it enacted, That it shall be lawful for the Commissioner to pay to the Surveyor to be appointed by him, out of the Inclosure Expences Fund, any Sum not exceeding Two hundred Pounds which the Commissioner shall think just and proper, in full Satisfaction for the Time, Trouble, and Expences which he or they shall be put to or incur in surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act, and for all Attendances upon the Commissioner, and for the Performance of all the Duties imposed by this Act, and for all travelling and other Expences of every Description to be incurred by the said Surveyor in and about the Execution of this Act and the said recited Acts; and in case any Person shall be appointed by the Commissioner as a Successor to the first-appointed Surveyor, then such first-appointed Surveyor, and his Successor, shall be paid or allowed respectively such Sums as shall be deemed reasonable and proper by the Commissioner, so that such Sums together do not exceed Two hundred Pounds.

Survey, &c. not to be made unless Commissioner shall deem it necessary.

XIII. Provided always, and be it enacted, That nothing in the said recited Acts or this Act shall require the Commissioner, or any Surveyor to be employed by him, to make or cause to be made any Survey, Admeasurement, or Plan of any Messuages, Cottages, and inclosed Lands or Grounds within the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, or either of them, unless the Commissioner shall deem such Survey, Admeasurement, or Plan expedient for the Purposes of this Act, but the Commissioner shall for the Purposes of the said Division, Allotment, and Inclosure use and adopt the Maps, Plans, and Surveys already or which hereafter shall be made and used in effecting the Commutation of Tithes in the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, or any other Plans or Surveys he may deem sufficient.

Meetings, and Notices thereof.

XIV. And be it enacted, That the Commissioner shall cause Notice to be given by Advertisement or on the Door of the Church of each of the Parishes aforesaid, of the Time and Place when and where his First and every subsequent Meeting shall be held (Meetings by Adjournment only excepted), and he may from Time to Time adjourn any such Meetings; and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend, it shall be lawful for the Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within One of the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, or within Eight Miles of One of them.

Notices how to be given.

XV. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement to be inserted

inserted in some Newspaper or Newspapers printed or usually circulated in the said County; and all Notices directed to be given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, to be affixed on the principal outer Door of the Church of each of the Parishes aforesaid on *Sunday* before Divine Service; and all Notices necessary to be given by the Commissioner, the Mode of giving which is not hereby particularly directed, shall be by One of the Methods aforesaid; and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

What shall be a Refusal to act.

XVI. And be it enacted, That if the said Commissioner shall not attend the First or Second Meeting appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if he shall, at any Time after having qualified himself as aforesaid, wilfully absent himself from any Two successive Meetings, the Times of such Meetings being known to him by his having been present at the Appointment of the first thereof, or by a Notice thereof in Writing under the Hand of the Clerk of the Commissioner having been given to him, or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness or by other reasonable Cause,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall, after having qualified himself aforesaid, wilfully absent himself in manner aforesaid, after such Notice, and without Cause or Excuse as last aforesaid, every such Absence or Nonattendance shall be deemed to be a Refusal to act.

For compelling the Attendance of Witnesses.

XVII. And be it enacted, That if any Person, having been summoned to testify the Truth upon Oath touching any Matter relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the Commissioner, to defray the Charges of his Attendance, shall not appear before the Commissioner pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to give Evidence touching the Premises, it shall be lawful for the Commissioner, upon Proof of such Summons, and Tender made before him upon Oath (which Oath he may administer), by Warrant directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress upon the Person so neglecting or refusing to appear or give Evidence, and the Money so to be levied shall be considered as Part of the Inclosure Expences Fund, and shall be applied accordingly.

For regulating Distresses.

XVIII. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of a Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending

attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings to be entered in a Book.

XIX. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner, and being so signed shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences, &c.

XX. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act.

Debts to be paid, and *Accounts to* be audited.

XXI. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months; and once at least in every Twelve Months during the Execution of this Act, and until the Accounts of the Commissioner shall be finally allowed, (the first of such Periods to be computed from the Day of the passing hereof,) he shall make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences; and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the Peace acting for the *Isle of Ely* not interested in the Premises, to be by him or them examined and balanced.

Accounts to be published.

XXII. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, or until such Abstract thereof shall have been published in some such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

For shortening Boundaries.

XXIII. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed and the old inclosed Lands in the said Parishes or any of them, or between such Allotments and inclosed Lands or any of them and any adjoining Lands, it shall be lawful for the Commissioner,

sioner, with the Consent of the Lord of any Manor in which any of such Lands are situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them, being a Corporation Aggregate, to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands, being in the same or in any adjoining Manor, as he shall judge proper, for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted and the old inclosed Lands respectively, or (as the Case may be) between the allotted or old inclosed Lands and such adjoining Lands.

Commissioner to set out Drains and enlarge and turn Watercourses.

XXIV. And be it enacted, That it shall be lawful for the Commissioner to set out and make such Common Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form, and in such Situations, as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, cleanse, or alter the Course of and improve any of the present Ditches or Watercouses, Banks or Bridges, as well in and over the same Lands, as also in any ancient Inclosures or other Lands within the said Parishes or any of them, as the Commissioners shall deem necessary (making such Compensation to the Proprietors of such ancient Inclosures or Lands, for the Damage done thereby, as the Commissioner shall think just); and the Expences of making, and enlarging, altering, and cleansing, such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done, in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner in the same Manner as the other Expences of carrying this Act into execution; but all such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct; provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing.

Commissioner's Works not to affect prejudicially the Works of Drainage Commissioners.

XXV. Provided always, and be it enacted, That nothing herein contained shall authorize the Commissioner to stop up, discontinue, divert, alter, interfere with, or prejudicially affect any Drain, Watercourse, Sewer, Tunnel, Sluice, Bank, Bridge, or Work belonging to or placed under the Jurisdiction or Control of the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or of the said Governor, Bailiffs, and Conservators, or of the *North Level* Commissioners, or their Committee, or of the Commissioners of Sewers for the Hundred of *Wisbech* and Parts adjacent, or of any Commissioner acting in the Execution of any Act or Acts for the Drainage of any of the Lands or Grounds lying within the Boundaries of the said several Parishes of

of *Leverington*, *Tid Saint Giles*, and *Outwell*, or either of them, without the previous Consent of the said Governor, Bailiffs, and Commonalty, Governor, Bailiffs, and Conservators, *North Level* Commissioners or their Committee, 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.

Power to widen Roads, making Compensation to LandOwners.

XXVI. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways where he shall think it necessary, within the said Parishes or any of them, to any Extent he shall think fit, not exceeding Forty Feet, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining such Roads (the same not being a Yard, Garden, Orchard, Paddock, Plantation, or Avenue to any House), the Commissioner making a full Compensation for the Value of the Land so taken, either by allotting and awarding unto the Persons from whom any such inclosed Land shall be so taken an adequate Part of the Lands to be inclosed, or out of the Inclosure Expences Fund, and also making good and substantial Fences on each Side of all such widened public Roads and Highways, in lieu of the Fences which shall be injured or destroyed by means of such widening.

Commissioner to set out certain public Carriage Roads Forty Feet wide.

XXVII. And be it enacted, That the Commissioner shall and he is hereby required to set out a public Carriage Road of the Width of Forty Feet in the Parish of *Tid Saint Giles*, from a Place called *Tid Gote*, through *Broad Drove*, to *Elloe Bank*; a public Carriage Road of the like Width in the Hamlet or Township of *Leverington Parson Drove*, from *Bellamill Bridge*, through the said Township, to *Murrow Bank*; and Two public Carriage Roads, each of the same Width, in the Parish of *Leverington*, the one of them from *Dowgate Bridge*, through *Gorefield*, to the *North Level Main Drain*, and the other of them, from *Dowgate Bridge*, over the *White Engine Common*, to *Bellamill Bridge*.

Power for Commissioner to stop up or divert Roads, &c.

XXVIII. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the said recited Acts, the Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the *Isle of Ely*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through any of the Lands to be inclosed, or any of the old Inclosures, within the said Parishes or any of them, and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed and taken to be Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road, unless the Consent of the Majority of the Trustees of such Turnpike Road, assembled at a public Meeting called for that Purpose on Ten Days Notice, be first obtained.

Proceedings previously to stopping up

XXIX. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued,

discontinued, stopped up, diverted, or altered by the said Commissioner, or any such Order of Two Justices of the Peace shall be made, the Commissioner shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered, (as the Case may be,) by the Commissioner, and the Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Door of the Church of the Parish in which such Road or Way shall be situate on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so given, and after such Order as herein-before mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered (as the Case may be), subject, however, to such Appeal as is herein-after mentioned.

and diverting Roads, &c.

XXX. Provided also, and be it enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within Four Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said Isle, upon giving to the Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any Hearing of Appeal to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Appeal to the Quarter Sessions.

XXXI. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant, and the same shall be recoverable in the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court shall allow such Appeal, and such public Carriage Road, Highway,

In case of Appeal, Jury at Sessions to determine whether the Roads, &c. shall be discontinued.

Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State, and shall award to the Appellant the Costs of prosecuting such Appeal, and such Costs shall be paid by the Commissioner out of the Inclosure Expences Fund.

Expences of discontinuing or widening Roads provided for.

XXXII. And be it enacted, That the Expences attending the purchasing of the Soil of such Roads, or the stopping up, discontinuing, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be paid out of the Inclosure Expences Fund.

Trustees may declare any of the Carriage Roads completed.

XXXIII. And be it enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said *Isle of Ely* shall certify any of the public Carriage Roads to be set out in pursuance of this Act to be sufficiently formed and completed, such Road shall thenceforth be kept in repair by such Persons and in such Manner as the public Roads within the said respective Parishes are or ought by Law to be kept in repair; and every such Certificate shall at the Quarter Sessions of the Peace to be holden for the said Isle next after the Date thereof be filed of Record by the Clerk of the Peace for the said Isle.

Commissioners to appoint private Roads.

XXXIV. And be it enacted, That the Commissioners shall set out such private Roads, Bridle Ways, and Footpaths through the Lands to be inclosed as he shall think requisite, giving such Notice and subject to such Examination as is required by the said first-recited Act in the Case of public Roads; and any Expences which the Commissioner may think fit to incur prior to the Time of making his Awards, relative to the setting out or the Formation or Completion of such private Roads, Bridle Ways, and Footpaths, or any of them, shall be paid out of the Inclosure Expences Fund; and the said private Roads, Bridle Ways, and Footpaths shall thereafter be maintained and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands within the said Parishes respectively, in such Shares and Proportions and in such Manner as the Commissioner shall by his Awards direct.

Commissioner empowered to suspend or extinguish Rights of Common.

XXXV. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the principal outer Doors of the several Parish Churches of *Leverington*, *Tid Saint Giles*, and *Outwell* aforesaid, to order all or any Part of the Rights of Common or other Rights in or over the Lands to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly.

Cattle depasturing in

XXXVI. And be it enacted, That if during the Suspension or after the Extinguishment of any such Right of Common or other Rights

Rights as aforesaid any Owner of any Commonable Messuage, or the Site of any Commonable Messuage, within the said Parishes or either of them, or any other Person, shall permit his Cattle or Sheep to go or depasture upon any of the Lands over which such Rights shall be suspended or extinguished, it shall be lawful for the Commissioner, or any other Person by his Order (testified in Writing under his Hand), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep, being upon such Lands contrary to such Order, and to impound the same until the Person so offending shall pay to the Persons so distraining such Sum of Money as the Commissioner shall by Writing under his Hand, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, have previously ordered, not exceeding the Sum of Ten Shillings for each Head of Cattle and Five Shillings for each Sheep so distrained, and in case the same shall not be paid within Seven Days after the Delivery of such Writing the Commissioner is hereby authorized, upon Proof of such Offence having been committed, and of Nonpayment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained or impounded, or such of them as he shall think necessary, or any other Goods or Chattels of the Person so offending, to be sold, for raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, rendering the Surplus (if any) to the Owner of such Cattle or Sheep; and from and after the Time appointed by the Commissioner for extinguishing the said Rights of Common or other Rights it shall be lawful for the Commissioner to let the Herbage arising and renewing from the said Commons, Droves, Banks, and Waste Lands to such Person and for such Sum of Money, either in the whole or in part, as he the Commissioner may deem expedient, for any Period not exceeding Six Months at each Letting, and to apply the Proceeds thereof towards the Inclosure Expences Fund.

breach of Commissioner's Order to be distrained.

Power for Commissioner to let the Herbage of Commons, &c.

XXXVII. And be it enacted, That it shall not be lawful for any Person, after the passing of this Act, until the Division and Allotment hereby authorized shall be made, to cut, dig, pare, take, or carry away any Silth, Sand, Sod, Turf, Flag, Soil, or other Material upon or from the said Lands to be inclosed, without the Licence of the Commissioner first obtained in Writing under his Hand; and if any Person shall, after the passing of this Act, and before the Execution of the Commissioner's Award, cut, dig, or carry away any Silth, Sand, Sod, Turf, Flag, Soil, or other Material on or from the said Lands to be inclosed, without such Licence of the 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 shall forfeit any Sum of Money not exceeding the Sum of Twenty Pounds.

No Turf to be cut without the Licence of the Commissioner.

XXXVIII. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands or the Hands of their Agents, unto the Commissioner, at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Lease-

Claims to be delivered to the Commissioner.

hold from each other, and the Manors in which they are situate; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose of which due Notice shall have been given, and so expressed therein, except for some special Cause to be allowed by the Commissioner.

Adjudication upon Claims.

XXXIX. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Door of the several Parish Churches of *Leverington*, *Tid Saint Giles*, and *Outwell* aforesaid, to be given of a Time (at least Ten Days distant) and a Place for all Parties concerned to appear before him, and show Cause for or against the Allowance or Disallowance of the said Claims, and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Difference shall happen between any of the Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath (which Oath the said Commissioner is hereby empowered to administer), and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order thereon as to the Commissioner shall appear just; which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law, as herein-after mentioned.

Commissioner not to determine Titles contrary to Possession.

XL. And be it enacted, That this Act shall not authorize the Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties (except in respect of Encroachments, as herein-after mentioned), but in case the Commissioner shall be of opinion against the Rights of the Party so in possession, he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or have been recovered from him by due Course of Law.

Parties dissatisfied authorized to try their Rights at Law.

XLI. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent, and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes, or at the Assizes immediately following such next Assizes which may be holden for the said County of *Cambridge* after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues, whereby

such Claim, and the Right and Interest thereby insisted on, may be tried and determined (such Issues to be settled by the proper of the Court in which such Action shall be commenced, in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict, and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined according to the Event of such Trial, and the Costs attending such Action shall abide the Event of the Trial.

If no Action brought within Time limited.

XLII. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial within the Time limited for that Purpose (unless the Court for sufficient Cause put off such Trial), the Determination of the Commissioner shall be final.

Parties dissatisfied with the Determination of the Commissioner on a Question of Law may state a Special Case for the Opinion of One of the Courts at Westminster.

XLIII. Provided always, and be it enacted, That in case any such Determination of the Commissioner shall involve a Question of Law only, and the Parties in difference shall be agreed upon the Facts relating thereto, and whereon such Determination shall have been founded, the Commissioner, at the Request of the Party dissatisfied (such Request to be made in Writing by such Party, or his Agent, within Ten Days after such Decision), shall direct a Case to be stated for the Opinion of One of Her Majesty's Courts of Law at *Westminster*, which Case shall be settled by the Commissioner, under his Direction, in case the Parties differ about the same, and may be set down for Argument, and brought before the Court, in like Manner as other Cases are brought before the Court; and the Decision of such Court in every Case so brought before it shall be binding upon the Commissioner, and upon all Parties concerned therein: Provided always, that the Costs of stating such Case, and of obtaining a Decision thereon, and otherwise incident thereto, shall be in the Discretion of the Court in or by which the same shall be decided, which may order the same to be taxed by the proper Officer of the Court; and the like Execution may be had for the same as if such Costs had been recovered upon a Judgment of Record of such Court.

Deaths of Parties not to abate Proceedings.

XLIV. And be it enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened (the Heir or Devisee, or other Person entitled to the Interest of the deceased Party in the Matter in question, being served with Process in the Action); and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before Action brought, it shall be lawful for the Person who might have brought such Action to bring the same, within the Time so limited as aforesaid, against such Person, as if actually living, and to serve the Commissioner or his Clerk with the usual Process for commencing such Action, in the same

If Parties die before Action brought, Suits to be carried on and defended in their Names.

same Manner as the deceased Person might have been served therewith if living; and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee or personal Representative of the deceased Person, or other the Person who shall claim the Benefit of such Determination as aforesaid; and on such Process being served such Heir or Devisee or personal Representative, or other Person, shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living, and the Rights, Interests, and Claims of all Parties shall be equally bound by the Event of any Action so brought or continued as aforesaid, as if the Death of any of the Persons interested therein had not occurred.

Suits not to delay the Execution of the Act.

XLV. Provided always, and be it enacted, That no Difference, Suit, or Proceeding, such as aforesaid, or respecting the Title to any Lands, shall impede or delay the Proceedings of the Commissioner in the Execution of this Act, but the Inclosure shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding; and the Allotment to which any such Difference, Suit, or Proceeding respectively shall relate shall be taken by the Party who by the Determination of such Difference, Suit, or Proceeding respectively shall become entitled to the same.

Commissioner may award Costs.

XLVI. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid by the Person whose Claim or Objection shall have been thereby disallowed, to the Person in whose Favour any Determination of the said Commissioner shall have been made; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same, upon Demand, the said Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress; and if there be no Goods or Chattels whereon to levy such Costs, it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Tofts to be deemed Commonable Messuages.

XLVII. And be it enacted, That all Tofts, Foundations, or Sites of ancient Commonable Messuages in the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, shall, upon Proof being made to the Satisfaction of the Commissioner that Commonable Messuages formerly stood thereon, be deemed Commonable Messuages, and the respective Proprietors thereof shall be entitled to the same Compensation for the Right of Common originally belonging thereto as if such Messuages were still standing.

XLVIII. And

Wills and Settlements not to be affected.

XLVIII. And be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, out of 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, Provisoes, Debts, Charges, and Incumbrances, as the said several Commonable Messuages and Tofts were and stood respectively limited or subject and liable to at the Time of the passing this Act.

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

XLIX. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid in respect of the same, to or for the Use of the Lord of the Soil, or any other Person, (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 Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

Pieces of Common Land by the Sides of the Road may be inclosed.

L. Provided always, and be it enacted, That all small Parcels of uninclosed Waste or Common Land (the Soil whereof shall belong to the Lord of any Manor in right thereof) lying by the Side of any Turnpike Road or other public Road or Lane within the several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, and which in the Judgment of the Commissioner may be conveniently inclosed without incommoding the public Intercourse on such Road or Lane, or rendering such Turnpike Road of less Breadth than Forty-five Feet, and such other public Road or Lane of less Breadth than Forty Feet respectively, shall be deemed Part of the Lands to be inclosed.

Allotments for Materials.

LI. And be it enacted, That the Commissioner shall, if he shall see fit, allot to the Surveyors for the Time being of the Highways of *Leverington*, *Leverington Parson Drove*, *Tid Saint Giles*, and *Outwell* aforesaid, and to their Successors for ever, such Parcels of the Lands to be inclosed as he shall think necessary and most convenient for supplying Stone and other Materials for the Repair of the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Parishes; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall from the Execution of his Award be vested in the Surveyors for the Time being of the Highways of the Parish wherein such respective Allotments shall be situate, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotments shall belong to

such Persons as the Commissioner shall by his Award direct; and if he shall make no such Direction, then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said respective Parishes; and the said Surveyor shall account for such Rents and Profits in the same Manner as they are by Law accountable for other Monies that shall come to their Hands in the Capacity of Surveyors of the Highways, and shall be subject to the like Penalties for the Neglect thereof.

Allotments for Pits or Wells for supplying the Inhabitants with Water.

LII. And be it enacted, That the Commissioner shall, if he shall see fit, allot unto the Churchwardens and Overseers of the Poor of *Leverington*, *Leverington Parson Drove*, *Tid Saint Giles*, and *Outwell* respectively, such Parcel or several Parcels of the said Commons, Droves, Banks, and Waste Lands in the said several Parishes as he shall think necessary and most convenient, as an Allotment or Allotments for supplying the Inhabitants of the said Parishes 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 Allotments respectively (if any) in Trust for the Use of the said Inhabitants, and for such Purpose of supplying Water as is herein above specified.

Allotments to be set out for the Recreation of the Inhabitants.

LIII. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of each of the several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell* aforesaid, out of the Lands to be inclosed, One Piece of Land in the most appropriate Situations, in each of the said Parishes, not more than Three Acres nor less than Two Acres, as a Place of Exercise and Recreation of the neighbouring Population; and such Allotments shall be held by such Churchwardens and Overseers for the Purposes aforesaid, and shall in the first instance be fenced at the general Expence, and the Fences of such Allotments shall for ever afterwards be repaired and maintained by the said Parishes respectively in such Proportions and Manner as shall be directed by the Award of the Commissioner.

Allotments to be set out for the Lord of the Manor for Right of Soil.

LIV. And be it enacted, That the Commissioner shall allot and award, in each of the said several Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, unto the Lord for the Time being of the said Manor of *Wisbech Barton*, or to such Person as shall in the Judgment of the Commissioner be entitled to the Soil of the Commons and Waste Lands in the said several Parishes or any Part thereof, so much and such Part of the Lands to be inclosed (save and except *Cotton's Common* in *Outwell* aforesaid) as shall in the Judgment of the Commissioner be equal in Value to One Sixteenth Part of such Commons and Waste Lands in each such Parish, Quality and Value considered, in lieu of his Right and Interest in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lord in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

LV. And

Allotment to the Common RightOwners of Leverington, in exclusion of Parson Drove, as an Equivalent for a former Inclosure.

LV. And be it enacted, That the Commissioner shall in the next place allot to the Owners of Common Rights, in respect of Messuages or Tofts situate in the said Parish of *Leverington* (in exclusion of the Owners of Common Rights in respect of Messuages or Tofts situate in the said Hamlet or Township of *Leverington Parson Drove*), One or more Piece or Pieces of Land, Part of the Commons and Waste Lands in *Leverington* aforesaid, containing in the whole Fourteen Acres, such Allotment to be appropriated and disposed of in the Manner herein-after provided for, and to be deemed an Equivalent or Compensation for a certain Part of the Commons and Waste Lands of the said Parish situate within the said Hamlet or Township which was inclosed by the Proprietors of the said Hamlet or Township Twenty Years and upwards before the passing of this Act, and which was and still continues to be appropriated and applied for the exclusive Use of the Inhabitants of the said Hamlet or Township.

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

LVI. And be it enacted, That after the several Allotments herein directed shall have been set out and made the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Owners of Rights of Common in the Lands to be inclosed in each of the said several Parishes, in respect of the said several Commonable Messuages and Tofts which shall have been ascertained and determined by the Commissioner, or by a Verdict or Judgment in any Action at Law as aforesaid, to have or be entitled to Right of Common thereon as aforesaid, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein.

Applications for Situations of Allotments.

LVII. And be it enacted, That the Commissioner shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands to be inclosed, touching the Situations in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Meeting, by Advertisement, or on the Church Door of the Parish in which such Allotments shall be situate.

For determining Objections to Allotments.

LVIII. And be it enacted, That as soon as the Commissioner shall have ascertained the respective Rights and Interests of the several Parties interested in the Lands to be inclosed, and also the Allotments by him proposed to be made to such Parties respectively in lieu of such Interests, he shall hold a Meeting, of which Ten Days Notice shall be given by Advertisement, or on the Church Door of the Parish in which such Allotments shall be situate, where such Parties may be informed of the Situation of such intended Allotments, and see the same delineated upon a Map or Plan to be produced for their Inspection; and if any of such Parties upon such Inspection shall be dissatisfied with the proposed Allotments, the Commissioner shall at such Meeting, or at some other Meeting to be appointed by him for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be final.

LIX. And

Quit Rent payable for Cotton's Common to be charged on an Allotment in Outwell.

LIX. And be it enacted, That the said Commissioner shall charge the said annual Quit Rent or Sum of Twenty Shillings payable to the Lord of the Manor of *Wisbech Barton* in respect of the said Common called *Cotton's Common* upon any Allotment in the said Parish of *Outwell*, making such Equivalent or Compensation as he shall think right and just to the Person upon whose Allotment he shall so charge the same.

Direction as to fencing Allotments.

LX. And be it enacted, That the several Allotments to be made in pursuance of this Act, 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, (except the Allotments to the Lord of the Manor of *Wisbech Barton* for the Time being, Surveyors and Churchwardens respectively,) 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, and in such Manner, as the Commissioner shall, in and by his Awards, or by any other Writing under his Hand, order or direct.

Commissioner may make Alterations in Allotments.

LXI. And be it enacted, That it shall be lawful for the said Commissioner, at any Time before the Execution of his final Awards with regard to either of the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, to make any Alterations in the Allotments, or in the Fences which he may have set out and ordered, or in the private Roads set out over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act, or as he may think right and expedient; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred, or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Monies to come to the Hands of the Commissioner in the Execution of this Act, or shall order and direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

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

LXII. And be it 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 Lands to be inclosed, shall at all Times hereafter be, remain, and continue of the same respective Tenures, and be held of the same Manors, and by and under the same several Fines, Customs, and Services, and proportionate Parts of Rents, as the respective Commonable Messuages or Tofts to which such Rights of Common respectively belong are held of, by, and under; and it shall be lawful for any Persons who shall from Time to Time be entitled to any such Commonable Mes-

suage 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, for all or any Part of their Estate or Interest therein or Right thereto, at any Time, either before or after the Execution of the Award of the 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 Commissioner shall and he is hereby authorized by his Awards to award every such Common Right which shall have been conveyed or assured, or sold or contracted to be sold, to any Person, before the Execution of his said Awards, upon Notice in Writing given to him of such Conveyance or Assurance, or Sale, or Contract for Sale thereof, unto or for the Person 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.

LXIII. And be it enacted, That the several Allotments to be set out and allotted by the Commissioner in or upon the said Lands to be inclosed 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 the same several Powers and Remedies for the Recovery and Payment thereof respectively, and to such and the same several Securities, and charged upon the same Rates respectively, as the several other Lands and Grounds lying in the same respective Parishes or Districts in which such Allotments shall respectively lie shall from Time to Time be respectively subject and liable unto.

Appropriation of the Allotment to the Common Right Owners of Leverington.

LXIV. And be it enacted, That the Allotment herein-before directed to be set out and allotted to or for the Owners of Common Rights in respect of Messuages or Tofts situate in the said Parish of *Leverington* (in exclusion of the Owners of Common Rights in respect of Messuages or Tofts situate in the said Hamlet or Township of *Leverington Parson Drove*) shall be appropriated and disposed of in such Manner and for such Purposes as Two Thirds in Number of such first-mentioned Common Right Owners who shall attend, either personally or by their respective Agents, at a Meeting to be convened for the Purpose (of which Meeting Notice shall be given by Five or more Common Right Owners upon some *Sunday* before Divine Service, by Writing to be affixed on some principal outer Door of the Parish Church of *Leverington* aforesaid, and also by Advertisement in some Paper usually circulated in the County of *Cambridge* at least Fourteen Days before such Meeting), shall order and direct, and the said Allotment shall be awarded by the Commissioner, and for ever after held and used in such Manner and for such Purpose accordingly; and in case no such Order and Direction shall be made and given for the Space of Three Calendar Months after the said Allotment shall have been set out as aforesaid, and after Notice signed by

the Commissioner of such Allotment having been set out shall have been affixed on some principal outer Door of the Parish Church of *Leverington* aforesaid, then and in such Case it shall be lawful for the Commissioner and he is hereby authorized and required absolutely to sell and dispose of the said Allotment by public Auction or private Contract, either together or in several Lots, as he shall think fit, and to receive the Purchase Money for the same, and to convey the same unto the Purchaser thereof and his Heirs, or as such Purchaser shall appoint; and after Payment of the Expences attending such Sale the Commissioner shall pay and divide the Purchase Money for which the said Allotment shall have been sold unto and equally between and amongst the several Owners of Common Rights in respect of Messuages or Tofts situate in the said Parish of *Leverington* (in exclusion of the Owners of Common Rights in respect of Messuages or Tofts situate in the said Hamlet or Township of *Leverington Parson Drove*); and the Shares of such of them as shall be Owners in Fee Simple in Possession shall be paid to them respectively, and the Shares of the others of them shall be applied and disposed of in the Manner by the said recited Acts or this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of Lands.

Allotments to the Lord of the Manor of Wisbech Barton to be fenced at the general Expence.

LXV. And be it enacted, That the Allotments to be made to the said Lord of the Manor of *Wisbech Barton* shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse, or other sufficient Fence, in the Judgment of the Commissioner; and the Expence attending the inclosing and fencing of the same shall be discharged out of the Inclosure Expences Fund, and be kept in repair by the Lord of the said Manor, or by the Persons for the Time being entitled in Possession to the said Allotments.

Power of the Bishop of Ely to Lease Allotments for Twenty-one Years in Possession.

LXVI. Provided always, and be it enacted, That it shall be lawful for the said *Joseph* Lord Bishop of *Ely*, and his Successors in the said Bishopric, from Time to Time to demise or lease all or any Part or Parts of the Lands which shall be allotted to the said Lord Bishop or his Successors, in pursuance of this Act, to any Person or Persons, for any Term or Terms of Years not exceeding Twenty-one Years, in Possession, and not in Reversion or by way of future Interest, so that there be reserved and made payable in every such Lease, during the Continuance thereof, the best and most improved yearly Rent or Rents, to go along with and be incident to the immediate Reversion of the Hereditaments and Premises therein comprised, that can or may be reasonably had or gotten for the same, without taking any Fine, Premium, or Foregift for the making of any such Lease, and so that in every such Lease there be contained a Condition for Re-entry on Nonpayment of the Rent or Rents to be thereby respectively reserved by the Space of Thirty-one Days next after the same shall become due, and so that the respective Lessees therein named shall seal and deliver a Counterpart or Counterparts thereof, and shall not be exempted from Punishment for committing Waste.

LXVII. And

Leases not in conformity with the Power to be void.

LXVII. Provided always, and be it enacted, That all Leases which shall be made or executed by the said *Joseph* Lord Bishop of *Ely* or his Successors, of all or any Part of the said Lands which shall be allotted to him or them in pursuance of this Act, and which shall not be authorized by or made in pursuance of the Power of leasing herein-before contained, shall be void and of no Effect.

Separate Allotments for Land held by different Titles.

LXVIII. And be it enacted, That when any Person to whom any Allotment shall be made, or Lands assigned in Exchange, by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment or Exchange is made, under different Titles and for different Estates, and as to Copyholds by separate Quit Rents, the Commissioner shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Awards set out distinct and several Allotments for such respective Lands, and also in the said Awards, and the Map annexed thereto, set out and distinguish the several Estates holden by several and distinct Quit Rents.

Where Allotments are omitted to be distinguished by the Award, the Defect may be remedied by a separate Instrument.

LXIX. And be it enacted, That where the Commissioner shall have omitted to distinguish in his Awards the several Tenures under which any of the said Lands shall be holden, or the different Estates or Titles for or under which the same shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for him, at any Time within Twelve Months after the Execution of his Awards, and he is hereby required, upon Request in Writing to him made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if his Awards had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as he is by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained, distinguished, and set out by his Awards; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Awards; and such Instrument shall be enrolled and deposited with the Awards of the Commissioner, and shall thenceforth be deemed to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the Commissioner to make and execute the same, or by his Heirs, Executors, or Administrators.

Partitions may be made in certain Cases.

LXX. And whereas it may happen that some of the Proprietors of Lands in the said respective Parishes, and Persons entitled to Allotments to be made by virtue of this Act, may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or as Coparceners, or Tenants in Common, and cannot, by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability

Disability or Incapacity, make an effectual Division thereof; be it therefore enacted, That it shall be lawful for the Commissioner, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments coming to such of the said Proprietors as shall be so seised or possessed or entitled, and to allot the same to such Owners and Proprietors in Severalty, and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty in the same Manner, and subject to the same Uses and Trusts, as the undivided Parts or Shares of such Estates would have been in case such Partition and Division had not been made; and every such Partition shall be specified in the Awards of the Commissioner, or some other Instrument under his Hand and Seal; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Expences of Partitions.

LXXI. And be it enacted, That all Costs and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in the Estates which shall be so parted in such Manner and Proportions as the Commissioner shall order, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power of Exchange.

LXXII. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, in Exchange for any other Lands within the said respective Parishes, or any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Awards of the Commissioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner shall be a Corporation, or a Tenant in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, (with the Consent of the Lessor 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 Owner as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, 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 every such Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands 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 in which

such Lands shall be situate: Provided also, that all Costs, Charges, and Expences attending the making and completing any Exchanges shall be borne by the several Parties making such Exchanges in such Manner and in such Proportions as the said Commissioner shall by any Writing under his Hand order and direct, and in case of Non-payment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power to apply Compensation Money owing to incapacitated Persons towards Inclosure Expences and substantial Improvements.

LXXIII. And be it enacted, That when any Money is, under the Provisions of the said recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor or 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 whose Lands 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, to be settled to the same Uses, it shall be lawful for the Commissioner out of such Money to defray the Proportion (if any) of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall in the Judgment of the Commissioner be proper to be made, and shall be made, under his Direction, upon any Lands to be by virtue of this Act allotted to such Parties.

Investment of the Surplus when amounting to 200*l.*

LXXIV. And be it enacted, That if 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 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, without Fee or Reward, and shall when 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 Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

1 G. 4. c. 35.

The Redemption or Discharge of the Land Tax, or of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses or Trusts:

The Purchase of other Lands to be conveyed or settled upon the like Uses or Trusts, or such of them as shall be then existing undetermined or capable of taking effect.

Payment of Dividends meanwhile.

LXXV. And be it enacted, That in the meantime and until such Application shall be made the said Money may, by Order of the said Court, to be made upon the like Petition, 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 of other Government or Real Securities; and the Dividends or Interest of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands to be purchased, conveyed, and settled.

When less than 200*l.* and amounting to 20*l.*

LXXVI. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the Commissioner, to be signified in Writing 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 Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the Commissioner, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be,) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LXXVII. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit, or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

Power for Commissioner to borrow Money.

LXXVIII. And be it enacted, That if before the said Monies herein authorized to be raised by the Commissioner can be raised and received by him he shall find it necessary or expedient to obtain by Loan any Money for or towards defraying the said Expences, it

shall be lawful for him to borrow and take up at Interest such 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 Commissioner, with Interest for the same, out of the Monies to be raised and received by him by any of the Means aforesaid.

Expence of Inclosure to be defrayed by Sale of a sufficient Part of the Commons.

LXXIX. And for the Purpose of raising Money for defraying the Expences of the Inclosure, (that is to say,) the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioner, Clerk, and Surveyor, for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the Award, and all other Costs and Expences whatsoever of carrying this Act into execution; be it further enacted, That the Commissioner shall mark and allot in the said several Parishes such Parts of the said Lands to be inclosed as he shall judge sufficient in Value to defray the Expences aforesaid, and shall, from Time to Time, as he shall find expedient, sell and dispose of the same, either by public Auction or private Contract; and the Purchase Monies to arise by all such Sales shall be paid into the Hands of the Commissioner, and shall be by him applied in or towards discharging the said Expences: Provided always, that the Expences preparatory or incident to or attending the obtaining and passing of this Act, or which have been or shall be incurred in consequence of or in reference to the passing thereof, shall be raised and paid in the following Proportions; (that is to say,) One Third Part thereof out of the Monies to arise from any such Sale as aforesaid of the Waste Lands in the said Parish of *Leverington*, One other Third Part thereof out of the Monies to arise from any such Sale as aforesaid of the Waste Lands in the said Parish of *Tid Saint Giles*, and the remaining One Third Part thereof by and out of the Monies to arise from any such Sale as aforesaid of the Waste Lands in the said Parish of *Outwell*; and that all other the Costs, Charges, and Expences aforesaid shall be raised and paid out of the Monies to arise from such Sales as aforesaid, so as that each of the said Parishes shall pay a Part of the general Expenditure proportionable to the Value of the Lands to be inclosed in the same Parish (such Proportion and Value to be ascertained and determined by the Commissioner), and also the whole of the Expences of all public Works which may be executed by the Commissioner under the Powers of the said recited Acts or this Act within or for the Benefit of the same Parish exclusively.

Commissioner to sign Receipts for Purchase Monies, and make Conveyances to Purchasers.

LXXX. And be it enacted, That upon every Sale to be made by the Commissioner under the Powers and Provisions of this Act the Commissioner shall sign and deliver to each Purchaser a Receipt for his Purchase Money, which shall be a sufficient Discharge for the same, and upon Receipt of the whole Purchase Money for any of the Premises which shall be so sold as aforesaid the Commissioner shall

shall 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, upon and for such Uses, Trusts, and Purposes as such Purchaser shall direct; and after such Conveyance the Premises conveyed shall become vested as Freehold of Inheritance, unto, upon, and for such Uses, Trusts, and Purposes as in or by such Deed or Deeds expressed and declared; and any such Conveyance may be to the Effect set forth in the Schedule (B.) to this Act; and all such Purchase Monies as shall be from Time to Time raised or received by the 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 Commissioner towards the Inclosure Expences Fund, 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.

Regulating Sale of Allotments.

LXXXI. And be it enacted, That after the Commissioner shall have set out any Parts or Parcels of the said Lands for Sale as aforesaid the said Commissioner shall make an Offer in Writing of such Lands for Sale by private Contract to the Proprietor of the old Inclosures adjoining thereto, at such Price as the Commissioner shall think fit, and such Proprietor shall have the Option of taking the same at such Price accordingly; and in case any such Proprietor shall for the Space of Twenty-eight Days refuse such Offer, then the Commissioner shall and he is hereby required to offer the same for Sale by public Auction, before offering the same for Sale to any other Person by private Contract.

Application of surplus Money.

LXXXII. And be it enacted, That in case any Surplus shall remain from the Monies to arise by any such Sale or Sales as aforesaid, after all such Costs, Charges, and Expences as aforesaid shall have been fully paid and satisfied, such Surplus shall be divided, apportioned, and paid by the Commissioner between and unto the several Persons interested in the Lands to be inclosed in the Parish wherein such Surplus shall arise, according to their respective Rights and Interests therein; and the proportional Shares 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, and 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 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 to be settled to the same Uses; or in case such surplus Money in any One Parish shall not amount in the whole to the Sum of Fifty Pounds, it shall be lawful for the Commissioner to order and direct the Payment and Application thereof for or towards the Improvement of any Part or Parts of the Lands to be inclosed within such

How such Surplus shall be applied if it shall not amount to 50*l.*

such Parish, or of any Allotments to be made by him therein, or of any Roadway, Fence, Bridge, Tunnel, Drain, or Watercourse upon or in the same.

Commissioner to make a separate Award for each of the Parishes.

LXXXIII. And be it enacted, That, as soon as conveniently may be after the said Inclosure shall be completed, the Commissioner shall draw up and execute a separate Award for each of the said Parishes of *Leverington*, *Tid Saint Giles*, and *Outwell*, and each Award shall be made and drawn up, and Notice thereof given, in manner directed by the said first-recited Act; and that each Award, together with a proper Map or Plan of the Lands to be inclosed, shall, within Three Months after the Execution thereof respectively, be delivered to the Clerk of the Peace of the *Isle of Ely*, who is hereby required to deposit and keep the same among the Records of the said Isle, so that recourse may be had thereto by any Person or Persons interested in the Premises; for the Reception whereof the Sum of Two Pounds and Two Shillings shall be paid, and no more, and for the Inspection and Perusal whereof the Sum of One Shilling, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and One Copy of each such Award, fairly transcribed in a Book, with a proper Plan of the Allotments comprised therein, shall be made, and examined, and attested by the Commissioner to be a true Copy of the said Award, and shall within the Time aforesaid be deposited in the Church of the Parish to which the same relates, and there be kept in a Tin Box to be provided for that Purpose; and the said Awards, and Copies thereof, as well as any other Copy of the said Awards, or any Part or Parts thereof, which shall be attested by the said Clerk of the Peace or his Deputy, (for every Sheet of which Copy containing One hundred Words Sixpence, and no more, shall be paid,) shall at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever, and by all Commissioners, Referees, and others; and from and after the Expiration of the Time allowed for an Appeal to the Quarter Sessions against such Awards, and no Appeal made, or, if any shall be made, from and after the Decision and Order of the Justices thereon shall have been confirmed or fulfilled, on Question shall be raised or entertained, nor any Inquiry allowed, as to whether the several Notices required by the said recited Act or this Act to have been given had been duly given by the Commissioner or not.

Each Award, with a Map of the Lands, to be deposited with the Clerk of the Peace;

and a Copy thereof in each Parish Church.

Appeal to Quarter Sessions.

LXXXIV. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried as herein-before mentioned, he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said *Isle of Ely* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing

Writing of such Appeal and of the Matter thereof (except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the said Awards respectively, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs and Damages as to them shall seem reasonable; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without sufficient Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid; and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on Appeal to be final.

LXXXV. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, and shall not be removed or removeable, by Certiorari or any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Application of Penalties.

LXXXVI. And be it 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 Inclosure Expences, in such Manner as the said Commissioner shall consider just and reasonable, having due Regard to the Provisions herein-before contained with reference to such Charges and Expences.

Saving Manorial Rights.

LXXXVII. Provided always, and be it enacted, That nothing in this Act contained shall prejudice or defeat the Right or Interest of the Lords of the several Manors within the Limits and Jurisdiction whereof the Lands to be inclosed are situate, of, in, and to the Seignories, Royalties, Rights, and Services incident or belonging to such Manors.

Reservation of the Rights of the Bedford Level Corporation.

LXXXVIII. Provided also, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to alter or take away any of the Rights, Powers, and Authorities vested in the Governor, Bailiffs, and Commonalty of the Company of Conservators of the Great Level of the Fens called *Bedford Level*, or in the Governor, Bailiffs, and Conservators of the *Bedford Level* Corporation, by virtue of an Act of Parliament passed in the Fifteenth Year of the Reign of King *Charles* the Second, intituled *An Act for settling the Drainage of the Great Level of the Fens called* Bedford Level, or by any other Act, Statute, or Charter, Law of Sewers, or otherwise howsoever.

LXXXIX. Pro-

Reservation of the Rights of the North Level and Nene Outfall Commissioners.

LXXXIX. Provided also, and be it enacted, That nothing in this Act contained shall diminish or abridge any of the Ways, Approaches, Rights, or Powers of the Commissioners of the *North Level*, Part of the said *Bedford Level*, or the Commissioners of the *Nene Outfall*, or their respective Committees, to, upon, or over any of the Banks, Lands, Drains, Waters, or Works vested in or belonging to or being under the Control or Management of the said *North Level* Commissioners or the said Commissioners of the *Nene Outfall*, or their respective Committees, or to authorize or empower the Commissioner for executing this Act to divide, allot, or appropriate any Part of the said Banks or Lands, or to charge the said North Level Commissioners, or the said Commissioners of the *Nene Outfall*, or their respective Committees, with any Portion of the Expences of carrying this Act into execution.

Reservation of Rights of Burgesses of Wisbech.

XC. Provided also, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to take away or in anywise affect any Power, Right, or Privilege belonging to the Burgesses of the Town of *Wisbech*, or to the Mayor, Aldermen, and Burgesses of the Borough of *Wisbech*.

Saving of Rights of Commissioners of Sewers and Drainage.

XCI. Provided also, and be it enacted, That nothing in this Act contained shall take away, alter, or affect any of the Rights, Powers, and Authorities vested in any Person 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 of the Lands and Grounds lying within the Boundaries of *Leverington*, *Tid Saint Giles*, and *Outwell* 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).

Reserving Rights of Wisbech Canal Company.

XCII. Provided also, and be it 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 each 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 any Part of the present outer Edges of the Bank 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* Nean *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 Load Sluice. 34 G. 3. c. 92.

Direction for the Application of the Arrears of the Quit Rent of 20*s*.

XCIII. And be it enacted, That the Sum of Five Pounds (Part of the said Sum of Seventy-seven Pounds so raised as in the Recitals of this Act is mentioned) shall be retained by the said *Joseph* Lord Bishop of *Ely* for his own Use, and shall be accepted by him in discharge

discharge of all his Claim in respect of the Arrears incurred since his Translation to the said Bishopric of the said annual Quit Rent or Sum of Twenty Shillings, and that within the Space of One Calendar Month next after the passing of this Act the said Lord Bishop shall pay the Sum of Seventy-two Pounds (the Residue of the said Sum of Seventy-seven Pounds) 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 Lord Bishop of *Ely*, pursuant to the Method prescribed by the Act of the First Year of the Reign of King *George* the Fourth, intituled
1 G. 4. c. 35. *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, without Fee or Reward; and shall, when 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 Bishop of *Ely* for the Time being, be applied to the Redemption or Discharge of the Land Tax or any Debt or other Incumbrance affecting any of the Lands or other Hereditaments belonging to the See of *Ely*; and in the meantime and until such Application the same Sum of Seventy-two Pounds shall, without any further Order, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated Bank Annuities, and the Dividends of such Annuities shall from Time to Time be paid to the Lord Bishop of *Ely* for the Time being, for his own Use: Provided always, that the Costs and Expences attending the paying in and Investment of the said Sum of Seventy-two Pounds shall be paid out of the Inclosure Expences Fund.

Reserving Rights of Old River Nene Commissioners.

XCIV. Provided also, and be it enacted and declared, That nothing in this contained shall extend or be construed to extend to the old River *Nene* Navigation, or to the Towing Paths on each 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 Navigation than at the Distance of Twenty-three Feet from any 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 Commissioners of the old River *Nene* Navigation granted by an Act passed in the Twenty-seventh Year of the Reign of His late Majesty King
27 G. 2. c. 12. *George* the Second, intituled *An Act for improving and preserving the Navigation from* Salter's Lode Sluice *in the County of* Norfolk *to* Standground Sluice *in the County of* Huntington, *and from* Flood's Ferry *in the* Isle of Ely *in the County of* Cambridge *to* Ramsey High Lode *in the said County of* Huntingdon, *and also the Navigation from* Old Bedford Sluice *in the said County of* Norfolk *to the River* Nene *in the Parish of* Ramsey *in the said County of* Huntingdon.

General Saving.

XCV. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, or Collegiate, Her and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, Claim and Demand, (other than and except such as are expressly

barred and compensated for, or intended to be barred or compensated for, and extinguished, by this Act,) which they, every or any of them, could or might have had, held, or enjoyed, of, in, to, or in respect of the Lands hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Interpretation Clause.

XCVI. And be it enacted, That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender only shall extend to Females as well as Males:

The Word "Month" shall mean Calendar Month:

The Word "Lands" shall include Tenements and Hereditaments:

The Expression "Lands to be inclosed" shall be understood to mean the Lands by this Act authorized to be divided, allotted, and inclosed:

The Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized to be raised for defraying the Expences of obtaining this Act and carrying the same into execution:

The Expression "the Commissioner" shall mean the Commissioner appointed, and for the Time being acting, by virtue of this Act.

Act as printed by Queen's Printers to be Evidence.

XCVII. And be it enacted, That this Act shall be printed by the several Printers to the Queen'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.

SCHEDULE (A.) referred to in the foregoing Act.

Form of Declaration by Commissioner or Surveyor.

I do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute, and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or* Surveyor, *as the Case may be,*] by virtue of an Act passed in the Year of the Reign of Her Majesty Queen Victoria, intituled [*here set forth forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.

SCHEDULE (B.)

Form of Conveyance by Commissioner.

I the Commissioner acting in execution of an Act of Parliament passed in the Year of the Reign of Queen Victoria, 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 Day of in the Year of our Lord .

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1841.