



ANNO QUINQUAGESIMO

GEORGE III. REGIS.

Cap. 128.

An Act for amending, enlarging and rendering more effectual an Act passed in the Eleventh Year of King *George* the Second, for the effectual draining and preserving of a certain Fen called *Cawdle Fen*, and other Fen Grounds in the *Isle of Ely*, in the County of *Cambridge*. [24th May 1810.]

WHEREAS an Act was passed in the Eleventh Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for the effectual draining and Preservation of certain Fens called Cawdle Fen, Waterden, and Redmore, and one Piece of Fen Ground called the Holts, in the Isle of Ely, in the County of Cambridge*; and by the said Act the Commissioners thereby appointed are among other Things authorized and empowered to assess, rate, tax, and charge all the Lands in the said Fen called *Cawdle Fen*, with any Rate or Sum not exceeding Two Shillings by the Acre in every Year for Four Years successively, to be computed from *Lady-day* One thousand seven hundred and thirty-eight, and after the Expiration of the said Four Years, and for every Year after, with any other Sum or Sums of Money not exceeding One Shilling and Sixpence per Acre, for carrying on and effecting the Works of Drainage thereby authorized to be made, and for maintaining the same: And whereas for Want of a sufficient Number of Commissioners for putting in Execution the said Act, no Taxes or Rates have for divers Years last past been assessed or rated upon or in respect of any of the Lands within the said Fen called

[Loc. & Per.] 32 R Cawdle

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Cawdle Fen, by reason whereof the Banks and Works of the said Fen are gone to Decay, and the said Fen has for several Years past frequently been and now is inundated and overflowed with Water, to the great Damage and Impoverishment of the Owners thereof: And whereas the Rates and Taxes granted by the said recited Act, so far as the same relate to the said Fen called *Cawdle Fen*, are insufficient for repairing, maintaining, and keeping in Repair the Works of Drainage within the said Fen; and it is necessary to raise further Sums, and to make additional Works for the more effectual Drainage and Preservation thereof: And whereas the Mode of appointing and the Powers given to the Commissioners by the said recited Act, so far as the same relate to the said Fen called *Cawdle Fen*, are defective and inconvenient of Execution, and it is expedient that certain Parts of the said Act, so far as relate to the said Fen, should be repealed and further and other Powers granted instead thereof: May it therefore please your Majesty, That it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, so much of the said recited Act as relates to the Boundary of the said Fen called *Cawdle Fen*, and to the Appointment, Qualification, and supplying Vacancies of Commissioners for the same, and to the Times and Places appointed for holding the Meetings of the said Commissioners, and to the assessing of the Lands within the said Fen with any Rate or Tax, and to the borrowing of Money by the said Commissioners, and the levying and recovering of the Rates and Taxes within the said Fen, and for allowing Tenants to deduct such Rates and Taxes out of their Rents, and to the Penalties for injuring and destroying the Works within or belonging to the said Fen, and to the keeping and passing of the Accounts of the Collectors and Receivers of the Taxes for the said Fen, shall be and the same is hereby repealed.

Certain Parts
of said Act
repealed.

Boundary of
Cawdle Fen.

II. And be it further enacted, That from and after the passing of this Act, the Boundary of the said Fen called *Cawdle Fen*, which contains Three hundred and nine Acres or thereabouts, shall be and the same is hereby declared to be as follows; (that is to say) beginning from the River *Ouse* next a Farm called *Brabam Farm*, and from thence under the said Farm to *Cawdle Fen Drove*; and from thence along the Ditch on the West Side of the said Drove, to the Turnpike Road leading from *Ely* to *Soham*, and from thence across the said Road and along the North Side thereof to *Ely Bridge* (and excluding the Holts) and from *Ely Bridge* aforesaid, by and along the Bank called *Cawdle Fen Bank* to *Brabam Farm* aforesaid.

Appointment
and Quali-
fication of
Commission-
ers.

III. And be it further enacted, That from and immediately after the passing of this Act, the Lord of the Manor of *Ely Barton* for the Time being, or in his Absence an Agent to be appointed by Writing under his Hand, an Agent appointed by the Dean and Chapter of *Ely* under their Common Seal, the Treasurer for the Time being of the Governors of the Lands and Possessions of the Poor belonging to the City or Town of *Ely*, the Churchwardens for the Time being of the Parish of the *Holy Trinity* in *Ely*, and every Person who for the Time being shall be *bonâ fide* seised or possessed in his own Right of Six Acres of Land lying within the said Fen called *Cawdle Fen*, shall be Commissioners to put this Act in Execution.

IV. And

IV. And be it further enacted, That if any Person not being qualified as hereinbefore is directed shall act as a Commissioner in the Execution of this Act, then and in every such Case every such Person so offending shall for every such Offence forfeit and pay the Sum of Fifty Pounds, to be recovered with full Costs of Suit by any Person who shall sue for the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, Bill, Plaint or Information, and the Person so prosecuted shall prove that he is qualified as aforesaid, or otherwise a Verdict shall be found against him, without any other Proof or Evidence on the Part of the Prosecutor than that such Person has acted as a Commissioner in the Execution of this Act.

Penalty on acting not being qualified.

V. And be it further enacted, That the First Meeting of the said Commissioners shall be holden at some Publick House or Inn in *Ely* aforesaid, on the Second *Wednesday* next after the passing of this Act, and One General Meeting of the said Commissioners shall be holden in every Year in *Ely* aforesaid, on the Second *Wednesday* in the Month of *October*; and it shall be lawful for the said Commissioners to hold all such other Meetings in *Ely* aforesaid, at such other Time or Times as any Three or more of the said Commissioners shall consider necessary, and shall by Notice in Writing under their Hands appoint; and the said Commissioners may from Time to Time adjourn any Meeting or Meetings to be holden by virtue of this Act to such Time or Place in *Ely* aforesaid, and as often as they shall think proper; and in case Five Commissioners shall not be present at the Time and Place appointed for holding any such Meeting, then and in every such Case any One Commissioner present, or the Clerk to the said Commissioners, shall and may adjourn the same to any Time not exceeding Ten Days from the Time when the last Meeting was appointed to be holden, and to the Place last appointed, and that publick Notice shall be given (in Manner herein directed) of every such Meeting Five Days previously to such Meeting, setting forth the Object thereof; and no Act of the said Commissioners shall be valid unless done at some Meeting or adjourned Meeting holden under the Authority of this Act (except signing any Notice for calling any Meeting); and all Powers and Authorities granted to or vested in the said Commissioners shall and may from Time to Time be exercised by the major Part of them present at any Meeting; provided that not less than Five Commissioners be present at such Meeting, and the Commissioners present at every Meeting shall and may choose a Chairman, who in case of an Equality of Votes on any Question (including the Vote of such Chairman) shall have the decisive or casting Vote, and the first Business done at every such Meeting shall be the Election of such Chairman.

Meeting of Commissioners.

Adjournment.

No Act of Commissioners valid unless done at some Meeting.

VI. And be it further enacted, That all Notices of Meetings of the said Commissioners and all other Notices hereby required to be given, shall be given by affixing such Notices in Writing on the principal outer Doors of the Churches of the *Holy Trinity* and *Saint Mary* in *Ely*, and also upon the Market Cross in the Town of *Ely*, or other Place usually appropriated for such Purposes.

Notices of Meetings and all other Notices how to be given.

VII. And be it further enacted, That there shall be allowed and paid by the Treasurer, Collector, or Receiver of the Rates and Taxes imposed

Expences of Meetings.

posed or authorized by this Act, out of the said Rates and Taxes, towards defraying the Expences of the said Commissioners at every General Annual Meeting to be holden under or by virtue of this Act, any Sum not exceeding Four Shillings for each Commissioner present at such Meeting, provided such Allowance shall not in any Case exceed Two Pounds, and at every other Meeting any Sum not exceeding One Shilling for each Commissioner present at any such Meeting, provided such Allowance shall not in any Case exceed Twenty Shillings, towards defraying such Expences.

Entries of
Proceedings
good Evi-
dence.

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

Commission-
ers to appoint
Officers.

IX. And be it further enacted, That it shall be lawful for the said Commissioners from Time to Time to appoint such Clerks, Treasurers, Surveyors, Receivers or Collectors, and such other Officers as they shall think necessary for the Execution of this Act, and to remove all or any of such Officers as they shall think fit, and to appoint others in the Room or Stead of such of them as shall be so removed, or as shall die or resign their respective Offices, or become or be incapable of discharging the same, and the said Commissioners shall take such Security for the due Execution of such respective Offices as they the said Commissioners shall think proper, and the said Commissioners shall and may, by and out of the Monies to arise by virtue of this Act, allow and pay to such Clerks, Treasurers, Surveyors, Receivers, Collectors and other Officers, such Salaries, Rewards and Allowances as they the said Commissioners shall deem reasonable; and all such Treasurers, Receivers, Collectors and other Officers shall fairly enter in Books to be by them respectively kept for that Purpose, an Account of all Monies by them respectively received and expended, specifying the Times when the Persons from whom and to whom and for what Purposes such Monies were respectively received and paid, which Books or true Copies thereof respectively, signed by the said Treasurers, Receivers, Collectors or other Officers, together with legal Receipts and Vouchers for the Expenditure, shall be yearly and every Year produced and delivered to the said Commissioners at their Meeting to be holden on the Second *Wednesday* in the Month of *October* in each and every Year, or at such other Times as they the said Commissioners shall direct, and the said Commissioners are hereby empowered to allow, pass and sign such Accounts, or such Part or Parts thereof as to them shall seem correct and proper, and such Treasurers, Receivers, Collectors and other Officers shall verify such Account upon Oath or Affirmation (which Oath or Affirmation any One of the said Commissioners is hereby empowered to administer), and the same Accounts when so allowed, and also all such Books, Receipts and Vouchers, shall be kept by the said Commissioners, or their Clerk, and shall and may at all seasonable Times be inspected and
perused

perused by such Treasurers, Receivers and Collectors and other Officers, and by any Owner or Owners, Proprietor or Proprietors of any of the Lands within the said Fen, without Fee or Reward; and all such Officers and Persons shall pay and they are hereby required to pay all such Monies as upon the Balance of such Account or Accounts shall appear to be in their Hands, to such Person or Persons as the said Commissioners shall appoint to receive the same.

X. And be it further enacted, That the Bank or Seat or Foundation of a Bank, and also the Scite, Seat or Foundation of a Mill, which were made by the Commissioners appointed under or by virtue of the said recited Act of the Eleventh Year of the Reign of His said late Majesty, for putting in Execution the same Act so far as regards the said Fen called *Cawdle Fen*, and all the Cuts, Drains, Dams, Tunnels, Sluices, Outlets and other Works of Drainage now made, erected or set up within or belonging to the said Fen called *Cawdle Fen*, or which shall at any Time or Times hereafter be made, erected or set up by the Commissioners appointed or to be appointed by virtue of this Act for the Drainage or Improvement of the said Fen, shall be and the same are hereby vested in the said last-mentioned Commissioners; and the said last-mentioned Commissioners are hereby also authorized and empowered from Time to Time to make, erect, and set up upon, through, or over any Part of the Lands lying within the Bounds and Limits of the said Fen called *Cawdle Fen*, all such Cuts, Drains, Banks, Bridges, Outlets, Sluices, Tunnels and other Works as they shall think necessary for the better draining and preserving of the said Fen, and the said last-mentioned Commissioners are hereby also authorized and empowered from Time to Time to divide off, and to take and use such Lands and Hereditaments lying within the said Fen called *Cawdle Fen*, as they shall judge necessary to be cut, dug, taken or used for making any such Cut, Drains, Banks, Bridges, Outlets, Sluices, Tunnels or other Works as aforesaid, or which they the said Commissioners shall deem proper and requisite to be left and reserved for the Preservation of any Bank or Banks made or maintained by virtue of this Act between such Bank or Banks, and the Ditches or Drains made or to be made next the same, and also from Time to Time and at all Times to dig, cut, take and carry away and Earth, Flag or other Materials from off any of the Lands lying within the Boundaries of the said Fen, or from any Lands or Wastes adjoining or near thereto, in order to heighten, widen, strengthen, make, maintain and support the Banks and Works within or belonging to the said Fen, of such Width, Strength and Dimensions as the said Commissioners shall think proper, they doing as little Damage thereby as may be, and making Compensation for the same in Manner hereinafter mentioned.

Works within the Fens vested in the Commissioners.

Power for Commissioners to make Works, &c.

XI. And be it further enacted, That it shall be lawful for the said Commissioners to make a Catchwater Drain from a certain Lane called *Braham Lane*, along the Ditch at the Bottom of a certain Farm called *Barton Farm*, to certain Lands called the *Bishop's Pieces*, and by and along the Ditch at the South End of the said Lands, to *Cawdle Fen Drove*, and along the Ditch which runneth at the Top of the said Drove to *Cawdle Fen Short Butts*, and along the Ditch which runneth at the Top of *Cawdle Fen Short Butts* aforesaid to another Ditch at the Bottom of *Barton Farm*, aforesaid, and along the same last-mentioned Ditch to the Ditch which runneth between the Lands belonging to the Feoffees of *Ely* and *John*

Commissioners empowered to make a Catchwater Drain.

Hitch, and along the said last-mentioned Ditch, to another Ditch which runneth between the Lands of the said Feoffees and *William Ingram*, and by and along the said last-mentioned Ditch to the Ditch on the North-west Side of *Gawdle Fen Drove* aforesaid, and by and along the said last mentioned Ditch in as straight a Direction as may be, by a Tunnel to be made and for ever hereafter to be maintained by the said Commissioners, under the aforesaid Turnpike Road, to the Ditch which runneth into a certain Ditch called *Amsdale Ditch*, and from thence along the said last-mentioned Ditch to the River *Ouse* aforesaid, they the said Commissioners making a proper Roadway with a good and sufficient Tunnel under the same, into the aforesaid Lands called the *Bishop's Pieces*, from the Drove-way next the same.

Commissioners to make a Bank on the North Side of the Turnpike Road, from the Turnpike Gate to *Ely Bridge*.
Taxes when and how to be laid and payable.

XII. And be it further enacted, That it shall be lawful for the said Commissioners to make a Bank for the Protection of the said Fen on the North-east Side of the Turnpike Road from the Turnpike Gate in *Ely* aforesaid to *Ely Bridge* aforesaid.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners or any Five or more of them, to assess, rate, tax and charge all the Lands within the said Fen called *Gawdle Fen*, with an equal and proportionate Tax not exceeding Twenty Pounds *per Acre* for each Year, until all the Works necessary for the Drainage and Protection of the said District shall be completed, and from and after the Completion thereof it shall be lawful for the said Commissioners to assess, rate, tax and charge all the said Lands with such an equal and proportionate Rate, not exceeding One Pound *per Acre* for each Year, as in the Judgment of the said Commissioners shall be deemed necessary, and all the Rates and Taxes hereby directed or authorized to be raised shall be paid to the Receiver, Collector or Treasurer to be appointed by the said Commissioners for the Time being, at such certain Place in the Town of *Ely* and in such Proportions as the said Commissioners or any Five or more of them shall direct and appoint for that Purpose, and that the first Rate or Tax on the said Lands shall be charged and imposed by the said Commissioners at their First Meeting to be holden after the passing of this Act or at some Adjournment thereof, and shall become due at the End of One Calendar Month next after the same shall be laid, and that all future Assessments, Rates, Taxes and Charges on the said Land shall be charged and imposed by the said Commissioners at a Meeting to be holden for that Purpose, on the First *Wednesday* in the Month of *March* in each subsequent Year or some Adjournment thereof, or at some subsequent Meeting of the said Commissioners, and shall become due and payable on the Twenty-fourth Day of *June* in every subsequent Year; and that publick Notice of the Times and Places appointed for the Second and all future Payments of the said Rates and Taxes shall be given by affixing the same on the principal outer Doors of the Parish Churches of the *Holy Trinity* and *Saint Mary* in *Ely* aforesaid, and also upon the Market Cross or Place usually appropriated to such Purposes in *Ely* aforesaid, on Two several Market Days immediately preceding the said Twenty-fourth Day of *June* in every Year; and in case of Non-payment of the said Rates or Taxes within Two Calendar Months after the Time herein-before prescribed for Payment thereof, every Person neglecting to pay the same shall forfeit and pay the Sum of Three Shillings and Four-pence for every Twenty Shillings due for such Rates or Taxes and not paid as aforesaid, and so in proportion for any greater or less

Penalty on Non-payment of Taxes.

less Sum than Twenty Shillings, to be recovered in the same Manner as the said Rates and Taxes are hereby authorized to be recovered.

XIV. Provided always, and be it further enacted, That no Tax shall be assessed, rated or charged upon or in respect of a certain Piece of High Land lying within the Boundary aforesaid, belonging to *John Atkin*, called *The Brick-kiln Grounds*, containing by Estimation Five Acres (be the same more or less), but that the said Piece of Land shall be for ever exempted from all Taxes to be assessed, rated or charged by virtue of this Act.

Certain Lands exempted from the Payment of Taxes.

XV. And be it further enacted, That until all the Works necessary for the Drainage and Preservation of the said Fen shall be completed, all the Rates and Taxes which shall be assessed by the said Commissioners upon the Lands within the said Fen, shall be paid by the Owners of the said Lands; but that from and after the Completion of the said Works, all and every the Tenants and Occupiers of Lands within the said Fen shall pay and they are hereby required to pay all and every such Rates and Taxes for the Lands in their respective Occupations, and they are hereby authorized to deduct and retain out of their respective Rents all such Sum and Sums of Money as they shall so respectively pay as aforesaid, and the several and respective Landlords and Owners of such Lands are hereby required to allow such Deductions and Payments upon the Receipt of the Residue of their respective Rents, and every such Tenant or Occupier paying any such Rates or Taxes shall be acquitted and discharged of so much Money as such Rates and Taxes so paid by him or her respectively shall amount unto, as fully and effectually as if the same had been actually paid to his or her Landlord or Landlords; but nothing herein contained shall extend or be construed to extend to enable any Tenant or Occupier to deduct from his or her Rent any Penalty or Forfeiture incurred by Non-payment of any of the said Rates or Taxes.

Tenants to pay Taxes and deduct them from their Rents.

But not to deduct Penalties.

XVI. And be it further enacted, That all and every Lease and Leases upon Rack Rent now subsisting of all or any Part or Parts of the Lands within the said Fen, and all and every other Agreement and Agreements for any Term or Terms of Years at Rack Rent, or from Year to Year or at Will, respecting the same or any Part thereof, shall (so far only as regards such Lands) cease and be void from and immediately after the passing of this Act, and the Owners and Proprietors of such Lands shall make such Satisfaction in Money to their Lessee or Lessees, Tenant or Tenants respectively, and within such Time as such Owners and Proprietors and their Lessee or Lessees, Tenant or Tenants shall respectively agree upon; and in case of Disagreement in the Premises between any such Owners and Proprietors, and any such Lessee or Lessees, Tenant or Tenants respectively, then upon Application made by either Party in Writing to the said Commissioners, they the said Commissioners or the major Part of them assembled at their First Meeting after the passing of this Act, or any Adjournment of the same, shall order and direct what Sum or Sums of Money shall be paid by such Owners and Proprietors respectively to such Lessee or Lessees, Tenant or Tenants respectively, as an Equivalent or Satisfaction for the Loss or Losses which he, she or they shall respectively suffer on account of the Determination of such Lease or Leases, Agreement or Agreements as aforesaid (proper Allowance being made

Leases at Rack Rent to be void on Compensation being made.

made for all such Conditions in every such Lease or Agreement as shall not have been fulfilled by such Lessee or Lessees, Tenant or Tenants respectively); and if the Money so agreed or ordered and directed to be paid as aforesaid, shall not be paid to the Person or Persons entitled to receive the same within Twenty-one Days after the Time agreed upon or appointed for Payment of the same (as the Case may be) and Demand made thereof in Writing under the Hand or Hands of the Person or Persons to whom the same shall be payable, it shall be lawful to and for any Three of the said Commissioners, by Warrant under their Hands and Seals (which Warrant any Three of the said Commissioners are hereby authorized and empowered to grant) and directed to any Person or Persons, to levy the same upon any Goods or Chattels of the Person or Persons liable to pay the same, together also with the Charges of levying the same.

Not to vacate
beneficial
Leases.

XVII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend so as to set aside or make void any beneficial Lease or Leases from any Body or Bodies Politick, Corporate or Collegiate of any Lands within the said Fen, to any Person or Persons whomsoever, but the Person or Persons entitled to such beneficial Lease or Leases shall and may hold and enjoy his, her and their several and respective Lands or other Hereditaments demised by any such Lease or Leases respectively, for his, her or their several and respective Term and Terms and under the same Rents and Covenants as is or are specified in his, her or their respective Lease or Leases, from the same Body or Bodies Politick, Corporate or Collegiate to him, her or them respectively.

No beneficial
Lessee to be
allowed to
deduct Taxes.

XVIII. Provided also, and be it further enacted, That no Lessee or Tenant of any of the Lands charged with any Rates or Taxes imposed or to be imposed by virtue of this Act, who shall hold the same by virtue of or under any beneficial Lease from any Bishop or Collegiate Church or College or any Corporation sole or aggregate, shall be entitled to deduct the said Rates or Taxes or any Part thereof out of the Rent reserved or payable by any such Lease, but that the said Rates and Taxes shall be charged upon and be paid and borne by the Lessees or Tenants so holding such Lands as aforesaid.

For relieving
Tenants for
Life from
the Taxes
paid by them
in case of
Death within
Seven Years.

XIX. And be it further enacted, That where any Person or Persons being Tenant or Tenants for Life or Lives of any Part of the Lands within the said Fen, who shall have paid the Rates or Taxes to be assessed, rated, taxed or charged by virtue of this Act in respect of such Lands, shall die before the Expiration of Seven Years from the Time appointed by the said Commissioners for the Payment of the said Rates and Taxes respectively for any Year, then it shall be lawful for him, her or them by his, her or their last Will and Testament or last Wills and Testaments respectively, to charge such Lands with the Payment of so much of such Rates and Taxes as shall have been paid by such Tenant or Tenants for Life or Lives within the Space of Seven Years previously to the Death of such last-mentioned Tenant or Tenants, and to direct and appoint the same to be paid to such Person or Persons as he, she or they shall think fit, and in Default thereof the same shall be a Charge on the said Lands; and shall within Six Months after the Death of such Tenant or Tenants

Tenants for Life or Lives, be paid by the Person or Persons entitled to the Reversion or Remainder immediately expectant on the Death of such Tenant or Tenants for Life or Lives, together with lawful Interest for the same from the Death of such Tenant or Tenants for Life or Lives respectively, and shall and may be recovered by Action of Debt in any of His Majesty's Courts of Record at *Westminster*, or in the Court of Pleas for the said *Isle of Ely*.

XX. And be it further enacted, That if any Person or Persons shall refuse or omit or neglect to pay all or any Part of the Rates or Taxes to which he, she or they is and are hereby made liable, for the Space of Two Months next after the Days or Times hereinbefore limited and appointed for the Payment of the same respectively, or shall refuse or omit or neglect to pay all or any Part of the Penalty or Penalties which shall become due by reason of the Non-payment thereof, then and in every such Case it shall be lawful for the Treasurer, Collector or Receiver of the said Commissioners, or any other Person or Persons empowered or appointed by the said Commissioners, by virtue of any Warrant or Precept under the Hands and Seals of any Five or more of the said Commissioners (which Warrant or Precept any Five or more of such Commissioners are hereby authorized and required from Time to Time to grant and make as Occasion shall require, and whether assembled at a Meeting or not,) to enter into and upon all or any Part of the Lands hereby directed or authorized to be taxed and charged as aforesaid, for which such Rates, Taxes and Penalties shall be due and owing or payable, and to levy the Sum or Sums of Money due and payable for such Rates and Taxes and Penalties by Distress of any Goods, Chattels or Effects which shall or may be found thereon; and where no sufficient Distress can be found upon such Lands whereon to levy the Tax or Taxes and Penalty which shall be then in arrear in respect thereof by virtue of this Act, it shall be lawful for the Treasurer, Collector or Receiver of the said Commissioners, or any other Person or Persons by virtue of any Warrant or Precept under the Hands and Seals of any Five or more of the said Commissioners (which said Warrant or Precept such Commissioners or any Five or more of them are hereby empowered and required from Time to Time to make as Occasion shall require) to levy all and every the said Tax or Taxes and Penalty which shall be then in arrear, by Distress of any Goods or Chattels of the Person or Persons so occupying any Lands chargeable with any such Tax or Taxes, whensoever and wheresoever such Goods and Chattels shall be found; and it shall be lawful for the Person or Persons distraining any Goods, Chattels and Effects for any such Rates, Taxes and Penalties, to impound and keep the same on the Premises where any such Distress shall be made, or to take, lead, drive, carry away and impound the same elsewhere for the Space of Five Days, including the Day on which such Goods, Chattels or Effects shall be taken, at the Costs and Charges of the Person or Persons liable to pay such Rates, Taxes and Penalties, delivering to the Occupier or Occupiers of the same, or leaving at his, her or their last or usual Place of Abode or Residence Notice in Writing of such Distress being made, and of the Cause thereof, and of the Place or Places where such Distress is intended to be, or shall be led, driven, taken away and impounded and kept; and in case the Sum or Sums of Money for which any such Distress shall be made, and all Costs, Charges and Expences attending such Distress, shall not be paid and discharged to the Treasurer,

Power of
Distress in
case of Non-
payment of
Taxes.

Collector or Receiver of the said Commissioners, or to the Person or Persons making such Distress, within the said Five Days after the making of such Distress, the Person or Persons so making such Distress shall or may, with the Constable of the Parish where such Distress shall be made (which said Constable is hereby directed upon being thereunto required to assist therein), cause the Goods, Chattels and Effects so distrained to be appraised by Two indifferent Persons upon Oath, which Oath the said Constable is hereby required and empowered to administer, and such Two Persons are hereby required to appraise the same according to the best of their Judgment, and after such Appraisement it shall be lawful for the Person or Persons making such Distress, to sell or cause to be sold the Goods, Chattels and Effects so distrained, for the best Price that can be reasonably had or gotten for the same, for and towards Satisfaction of the Monies for which such Distress and Sale shall be so made, and the Costs, Charges and Expences of taking, keeping, appraising and selling the same, rendering the Overplus of the Monies arising from any such Sale (if any) on Demand to the Person or Persons entitled thereto.

Commissioners may enter upon and agree for the Purchase of Lands or Satisfaction of Damages.

Bodies Politick, &c. may contract for Sale of Lands or Compensation for Damages.

XXI. And be it further enacted, That the said Commissioners shall have full Power and Authority to enter upon the Lands of any Person or Persons adjoining or near to any of the Cuts, Drains, Tunnels, Outlets or other Works which they the said Commissioners are hereby directed or authorized to make or do, and to take and dig Earth therefrom, and to do such other Acts as may be necessary to carry into Effect the Purposes of this Act, making Satisfaction to the Party or Parties injured thereby; and for that Purpose the said Commissioners are hereby empowered to agree with the Proprietors of and Persons interested in any Lands, Tenements or Hereditaments which they the said Commissioners shall judge necessary to be dug out, taken, used or entered upon for making any Cuts, Drains, Tunnels, Outlets or other Works hereby directed or authorized to be made or done for the Purchase of such Lands, Tenements and Hereditaments, or for the Recompence to be made to such Proprietors and Persons interested for the Damages they may sustain thereby, and also to settle and ascertain in what Proportion the Sum or Sums so agreed for shall be paid to the several Persons interested in the Premises; and it shall be lawful for all Bodies Politick, Corporate or Collegiate, Corporations aggregate or sole, Husbards, Guardians, Trustees and Feoffees in Trust, Committees, Executors, Administrators and all other Trustees whatsoever, not only for and on Behalf of themselves, their Heirs and Successors, but also for and on Behalf of their Cestique Trusts, whether Infants or Issue unborn, Lunaticks, Idiots, Femes Covert or other Person or Persons who are or shall be seised or interested in their own Rights, and to and for all and every other Person and Persons whomsoever, who are or shall be seised, possessed of or interested in any such Lands, Tenements or Hereditaments, to contract for, sell and convey unto the said Commissioners, or to such Person or Persons as they shall appoint, any Lands, Tenements or Hereditaments for the Purposes aforesaid, or to agree with the said Commissioners for any Recompence or Compensation to be made for the Damages which may be done to any such Lands, Tenements or Hereditaments by the Means aforesaid; and all such Contracts, Sales, Conveyances and Agreements shall be valid and effectual in Law to all Intents and Purposes whatsoever, any Law, Statute, Usage or Custom to the contrary notwithstanding; and all Bodies Politick, Corporate or Collegiate

giate and all Persons whomsoever, are hereby indemnified for what they or any of them shall lawfully do in pursuance of this Act; but if it shall happen that any such Body Politick, Corporate or Collegiate, Trustee or Trustees or other Person or Persons interested or concerned as aforesaid, shall for the Space of Forty Days after Notice in Writing given to the principal Officer or Officers of such Bodies Politick, Corporate or Collegiate, or to such Trustee or Trustees, Person or Persons respectively, or left at his, her or their Place or respective Places of Abode, or at the House of the Tenant or Tenants, Occupier or Occupiers of such Lands, Tenements or Hereditaments, neglect or refuse to treat or shall not agree with the said Commissioners, or by reason of Absence shall be prevented from treating, then and in every such Case the said Commissioners may and they are hereby authorized and empowered, Fourteen Days at least before any General Quarter Sessions of the Peace to be holden for the said *Isle of Ely*, within Twelve Calendar Months after such Lands, Tenements or Hereditaments shall have been taken or used or such Damage done, to give or cause to be given to the Party or Parties whose Lands, Tenements or Hereditaments shall have been taken or used, or who shall have sustained such Damage or Injury, or to leave or cause to be left at his, her or their last or usual Place or Places of Abode respectively, or at the Place of Abode of the Tenant or Tenants in Possession of the Premises, a Notice in Writing, purporting that the Value of such Lands, Tenements or Hereditaments, and the Amount of the Damage or Injury sustained, will be adjusted and settled by a Jury at the said Sessions; and the Justices at their said Sessions or any Adjournment thereof, shall charge and they are hereby authorized and required to charge the Jury which shall attend at such Sessions, or some other Jury of Twelve honest and substantial Men, to be then and there impannelled and returned by the Chief Bailiff of the said *Isle of Ely*, and to cause them to be sworn well and truly on their Oaths to assess the Value of such Lands, Tenements or Hereditaments, and the Recompence to be given for the same, or for any Damage or Injury sustained as aforesaid, to the respective Person or Persons, Body or Bodies Politick, Corporate or Collegiate having any Interest therein, or to the Owner or Owners thereof, according to their respective Interests, to which said Juries the said Commissioners and all Parties interested shall have their lawful Challenges when they come to be sworn, and the Clerk of the Peace for the said *Isle of Ely* is hereby empowered and required, upon Application made to him by any of the Parties interested, by Subpœna or Summons under his Hand to call before the Justices at such Sessions or any Adjournment thereof, any Person or Persons who shall be thought proper to be examined touching or concerning the Premises, and the said Jury upon their Oaths (which Oaths and also the Oaths to be taken by the Persons who shall appear or be summoned to be examined and give Evidence as aforesaid, the said Justices at their said Sessions are hereby empowered and required to administer) shall ascertain and award the Recompence to be given for such Lands, Tenements or Hereditaments, or any Damage or Injury which shall have been done as aforesaid, to the respective Person or Persons, Body or Bodies Politick, Corporate or Collegiate, or Owner or Owners thereof, and the said Justices shall and may give Judgment according to the Verdict of the said Jury; and the Judgment thereupon declared and pronounced by the said Justices shall finally bind and shall be conclusive to the said Commissioners, and all Persons and Parties interested in the said Lands, Tenements or Hereditaments, and shall be entered

Commissioners may apply to the Sessions to ascertain the Value of Lands and Amount of Damages.

The Justices to cause the Jury to assess Damages.

Justices to give Judgment; the same to be final.

and

and kept among the Records of the Quarter Sessions of the said *Ile of Ely*, and the same or a true Copy thereof being signed by the Clerk of the Peace for the said *Ile of Ely*, shall be deemed and taken as good Evidence in all Courts of Law or Equity, and all Persons may have recourse thereto or take Copies thereof or Extracts therefrom, on paying the usual Fees paid in Cases of the like Nature.

Expences of
the Jury and
Witnesses by
whom to be
paid.

and settled by
the Justices.

XXII. And be it further enacted, That in all Cases where any Verdict shall be given for any greater Sum or Recompence than shall have been offered by or on Behalf of the said Commissioners before Notice of the intended Application to be made to the said Sessions for or in respect of any of the Matters aforesaid, that then all the Expences of such Application (including the Charges of Witnesses) shall be paid by the said Commissioners out of the Rates and Taxes to be raised by virtue of this Act; but if any Verdict shall be given for no more or for a less Sum than shall have been so previously offered by or on the Behalf of the said Commissioners, then and in every such Case such Expences shall be paid by the Owners of or Persons interested in the Lands, Tenements or Hereditaments, upon or in respect of which such Application shall have been made; all which Expences shall be regulated, settled and allowed by the Justices in Sessions, before whom the Matter shall be heard and determined: Provided always, that in all Cases where any Person shall by reason of Absence have been prevented from treating, such Costs and Expences shall be paid and borne by the said Commissioners out of the Monies to be raised or received under or by virtue of this Act.

Application
of Compens-
ation where
exceeding
200l.

XXIII. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements or Hereditaments purchased, taken or used by virtue of the Powers of this Act for the Purposes thereof, which shall belong to any Corporation, Feme Covert, Infant, Lunatick, or Person or Persons under any other Disability or Incapacity as herein mentioned, such Money shall, (in case the same shall exceed the Sum of Two hundred Pounds,) with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account there *ex parte* the said Commissioners, to the Intent that such Money shall be applied under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements or Hereditaments, in the Discharge of any Debt or Debts, or Part thereof, affecting the same Lands, Tenements or Hereditaments, or affecting other Lands, Tenements or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Messuages, Lands, Tenements and Hereditaments, which shall be conveyed and settled to, for and upon such and the like Uses, Trusts, Intents and Purposes, and in the same Manner as the Messuages, Lands, Tenements and Hereditaments, which shall be so purchased, taken or used as aforesaid stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing, undetermined and capable of taking Effect; and in the mean Time and until such Purchase

chase shall be made, the said Money shall, on the Request of any Three or more of the said Commissioners, in Writing signed by them, and without any Order of the Court of Chancery, 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, and in the mean Time and until the said Bank Annuities shall be ordered by the said Court of Chancery to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities shall from Time to Time go and belong to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands, Tenements and Hereditaments so hereby directed to be purchased, in case such Purchase or Settlement were made.

XXIV. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements or Hereditaments purchased, taken or used for the Purposes aforesaid, and belonging to any Corporation or to any Person or Persons under Disability or Incapacity as aforesaid, shall not exceed the Sum of Two hundred Pounds nor be less than Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements and Hereditaments so purchased, taken or used, or of his, her or their Guardian or Guardians, Committee or Committees (in case of Infancy or Lunacy), to be signified in Writing under their respective Hands, be paid into the Bank of England, in the Name and with the Privity of the said Accountant General, and be placed to his Account as aforesaid, in order to be applied in Manner herein-before directed; or otherwise the same shall be paid at the like Option to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Three or more of the said Commissioners, such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties, in order that such Money may be applied in any Manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction or Approbation of the Court of Chancery.

Application where Compensation does not exceed 200l. nor is less than 20l.

XXV. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as next before is mentioned shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements and Hereditaments so purchased, taken or used for the Purposes of this Act, or in case of Infancy or Lunacy then to his, her or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

Application where the Money is less than 20l.

XXVI. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements or Hereditaments to be purchased by virtue of this Act, shall refuse to accept the same or shall not be able to make a good Title to such Lands, Tenements or Hereditaments to the Satisfaction of the said Commissioners; or in case the Person or Persons to whom such

In case of not making out Titles;

or if Persons cannot be found;

[Loc. & Per.]

32 U

Sum

Purchase
Money to be
paid into the
Bank

subject to the
Order of the
Court of
Chancery, by
Motion or
Petition.

Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands, Tenements or Hereditaments be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Commissioners or any Three or more of them, to order the said Sum or Sums of Money so awarded as aforesaid to be paid into the Bank of *England* in the Name and with the Privy of the aforesaid Accountant General, to be placed to his Account, to the Credit of the Parties interested in the said Lands, Tenements or Hereditaments [*describing them*], subject to the Order, Controul or Disposition of the said Court of Chancery, which said Court of Chancery, on the Application of any Person or Persons making Claim to such Sum or Sums of Money or any Part thereof by Motion or Petition, shall be and is hereby empowered in a summary Way of Proceeding or otherwise as to the same Court shall seem meet, to order the same to be laid out and invested in the Publick Funds, and to order Distribution thereof or Payment of the Dividends thereof according to the respective Estate or Estates, Title or Interest of the Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England* who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum and Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

Where any
Question shall
arise touching
the Title to
Money to be
paid, the
Person who
shall be in
Possession
at the Time of
such Pur-
chase shall be
deemed enti-
tled thereto
according to
such Posses-
sion.

XXVII. Provided always, and be it further enacted, That where any Question shall arise touching or concerning the Title of any Person to any Money to be paid into the Bank of *England* in the Name and with the Privy of the said Accountant General in pursuance of this Act, for the Purchase of any Lands, Tenements or Hereditaments, or of any Estate, Right or Interest, in any Lands, Tenements or Hereditaments, to be purchased in pursuance of this Act, or to any Bank Annuities to be purchased with any such Money, or the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements or Hereditaments at the time of such Purchase, and all Persons claiming under such Person or Persons or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements or Hereditaments according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Chancery; and the Dividends and Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements or Hereditaments or of or to some Estate or Interest therein.

The Court of
Chancery
may order
reasonable
Expences of
Purchases to
be paid by
the Commis-
sioners.

XXVIII. Provided also and be it further enacted, That where by reason of any Disability or Incapacity of the Person or Persons or Corporation entitled to any Lands, Tenements or Hereditaments to be purchased under the Authority of this Act, the Purchase Money for the same shall be required to be paid into the Court of Chancery, and to be applied in the Purchase of other Lands, Tenements or Hereditaments to be settled to the like Uses in pursuance of this Act, it shall be lawful to and for the said

said Court of Chancery to order the Expences of all Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expences as the said Court shall deem reasonable, to be paid by the said Commissioners out of the Monies to be received by virtue of this Act, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioners or any Five or more of them, at any General or Special Meeting or any Adjournment of the same from Time to Time as to them shall seem meet, to borrow and take up any Sum or Sums of Money not exceeding the Amount of the Rates or Taxes hereby directed or authorized to be laid within the Year then next ensuing, by way of temporary Loan for the Purposes of this Act, upon the Credit of such last-mentioned Rates or Taxes, and any Five or more of the said Commissioners are hereby authorized to give a written Undertaking or their own personal Security for Re-payment of such Sum or Sums of Money, together with lawful Interest for the same, out of the said last-mentioned Rates or Taxes; and any Five or more of the said Commissioners, or the said Commissioners giving such Undertaking or Security as aforesaid, are hereby authorized at the usual Time in the then next succeeding Year to lay and impose such a Rate or Tax as will re-pay the said Sum or Sums of Money so borrowed, together with lawful Interest for the same, and no Part of such last-mentioned Rates or Taxes shall be applied to any of the Purposes of this Act, until the whole of such temporary Loan, together with lawful Interest for the same, shall be re-paid: Provided always, that nothing herein contained shall extend or be construed to extend to authorize the laying of more than One Rate or Tax on the said Lands and Grounds in any One Year.

Commissioners may borrow Money on the Taxes for temporary Purposes, and pay the same out of the ensuing Year's Tax, and may lay such Tax themselves.

No more than One Tax to be laid in any One Year.

XXX. And be it further enacted, That all such Monies as shall be advanced and paid by any Person or Persons whomsoever in Discharge of the Fees and other Expences in obtaining and passing this Act, shall be in the first place repaid and satisfied by the said Commissioners, with lawful Interest for the same, out of the first Monies to be raised by them by virtue of this Act.

Monies advanced for obtaining this Act to be repaid with Interest.

XXXI. Provided always and be it further enacted, That if any Person or Persons shall be willing to pay all or any Part of the Taxes hereby directed or authorized to be laid in Advance for One Year or for Two or more Years, then the said Commissioners are hereby authorized and empowered to receive the same, and to allow the Person or Persons so advancing and paying the same Discount or Interest at the Rate of Five Pounds *per Centum per Annum*, from the Time or Times of such Payment or Payments to the Time or Times when the Tax or Taxes respectively so paid in Advance would have become payable, according to the Provisions hereinbefore contained, and the Receipt and Receipts for the said Sums so paid in Advance shall be a Discharge to such Person or Persons for his or her Tax or Taxes when the same shall be rated and become payable.

Persons paying Taxes in Advance to be allowed Interest for Sums advanced.

XXXII. And be it further enacted, That all Monies to arise from the several Rates and Taxes hereby directed or authorized to be laid as aforesaid,

Application of Monies.

said, and all pecuniary Penalties, Forfeitures, and all other Monies to be received, levied, or recovered by virtue of this Act, not hereby otherwise disposed of, shall be and the same are hereby vested in the said Commissioners, and shall be by them applied and disposed of for the general Purposes of the said recited Act and of this Act.

Power to let
Herbage of
Banks, &c.

XXXIII. And be it further enacted, That the said Commissioners shall and may at any Meeting to be holden by virtue of this Act, let to the best Bidder or Bidders, the Herbage and Pasturage of the Banks and Drove ways belonging to the said Fen for the ensuing Year, to be fed with Sheep or Calves not being more than One Year old, and the Rents and Profits arising therefrom shall be paid and applied in the same Manner as the Rates and Taxes to be raised by virtue of this Act are to be applied.

Thistles, &c.
on the Banks
to be mowed.

XXXIV. And be it further enacted, That the said Commissioners shall and may cause all the Thistles and Weeds which shall arise or grow upon or in any Bank or Drove belonging or immediately adjoining to the said Fen, to be mowed, cut down, and destroyed as often as shall be necessary, and shall and may make such Payments and Allowances for that Purpose out of the Monies to arise by virtue of this Act as they shall think proper.

Power to de-
stroy Moles.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioners to destroy or cause to be destroyed all such Moles and other Vermin as shall be found in and about the Lands and Banks belonging and adjoining or lying near to the said Fen, and for that Purpose to employ such Person or Persons at such Wages or Salary as they the said Commissioners shall think proper for that Purpose, and it shall be lawful for such Person or Persons to enter into and upon all such Lands and Banks respectively.

Restriction as
to planting
Trees or
Holts, erect-
ing Buildings
or cutting
Ditches near
Engines or
Banks.

XXXVI. And be it further enacted, That no Tree or Trees, Holt or Holts, shall at any Time or Times hereafter be planted, nor shall any Buildings be placed, erected or built, except by the Order or Permission of the said Commissioners, nearer to any Mill or Engine to be made or erected under the Authority of this Act, than Two Furlongs, and if any Tree or Trees, Holt or Holts, shall hereafter be planted, or any Buildings made, erected or built, within the said respective Distances, and if any such Tree or Trees, Holt or Holts, shall not be taken up or such Buildings pulled down and removed within the Space of Twenty-one Days after Notice for that Purpose shall be given, by Order of any Three of the said Commissioners to the Owner or Proprietor of the Land or Ground where such Tree or Trees, Holt or Holts or Buildings respectively shall be, and left at his, her or their last usual Place of Abode or with or for the Tenant in Possession of the Premises, then and in every such Case it shall and may be lawful for any Three of the said Commissioners to cause such Trees and Holts to be taken up and carried away, and such Buildings to be pulled down and removed immediately after the Expiration of the Notice so given for that Purpose, and the Costs and Expences thereby incurred shall be reimbursed to the said Commissioners by the Person or Persons who committed the Offence, and may be recovered by the said Commissioners in such and the same Manner as the Taxes hereby di-
rected

rected or authorized to be raised within the said Fen are or may be recoverable.

XXXVII. And be it further enacted, That if any Person or Persons shall at any Time hereafter set any Net or Nets, Tunnel or Tunnels, or any other Engine or Device for the catching of Fish or any other Purpose whatsoever, in or against any of the Dikes, Ditches, Drains, Sluices or Tunnels belonging to the said Fen, or do any other Act whatsoever to impede or obstruct the Passage of the Waters through the said Dikes, Ditches, Drains, Sluices or Tunnels, every such Person so offending shall for every such Offence forfeit and pay any Sum or Sums of Money not exceeding Twenty Pounds.

Penalty on setting Nets or Engines in any of the Dikes, &c.

XXXVIII. And be it further enacted, That if any Person or Persons shall at any Time hereafter, maliciously cut down, break, burn, demolish or destroy any Bank, Mill, Sluice, Tunnel or Work already made or erected, or which shall at any Time hereafter be making or erecting, or be made or erected, supported or maintained, for answering any of the Purposes of this Act, every Person so offending and being thereof convicted, shall be subject and liable to the like Pains and Penalties as in Cases of Felony, and the Court by or before whom any such Person shall be tried, shall have Power and Authority to cause such Person to be punished in like Manner as Felons are directed to be punished by the Laws or Statutes of this Realm, or in Mitigation of such Punishment such Court may in its Discretion award such Sentence as the Law directs in Cases of petit Larceny; and if any Person or Persons shall at any Time hereafter wilfully damage or injure any such Bank, Mill, Sluice, Tunnel or Work, or shall wilfully stop, dam up, damage or injure any Drains, Watercourses, Doors, Dams or other Work or Works already made or erected or which shall at any Time or Times hereafter be making or erecting, or be made or erected, supported or maintained for answering any of the Purposes aforesaid, or wilfully hinder or obstruct the said Commissioners or any of their Officers, or any Servants, Workmen or Labourers employed by them the said Commissioners or any of their Officers, in scouring out any Drains or Watercourses or in making or repairing any Work or Works hereby directed or authorized to be done, every Person offending in any or either of the Cases aforesaid, and being thereof convicted before any Two or more Justices of the Peace for the said *Isle of Ely* (which Justices are hereby required to hear and determine the same) on the Oath of One or more credible Witnesses or Witnesses, shall forfeit any Sum not exceeding One hundred Pounds to the said Commissioners, to be applied by them for the Purposes of this Act, and in Default of Payment thereof the Person or Persons so offending shall be sent to the House of Correction of the said *Isle of Ely*, there to be kept to hard Labour for such Time as such Justices shall order and direct not exceeding Six Calendar Months.

Punishment for destroying Works.

Penalty for damaging Works or obstructing the Officers of Commissioners.

XXXIX. And be it further enacted, That if any Person or Persons shall drive any Wain, Cart, Waggon or Carriage, along any of the Banks belonging to the said Fen, or shall fodder or drive, or cause to be foddered or driven, any Cattle or Stock upon any of such Banks, then and in every such Case every such Person so offending shall

Penalty for driving Carriages or foddering Cattle on the Banks.

[Loc. & Per.]

32 X

forfeit

forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Penalty f
suffering or
Cattle or
Swine to stray
&c. on the
Banks.

XL. And be it further enacted, That if any Person or Persons shall wilfully or negligently suffer his, her or their Cattle, Stock or Swine, to stray upon or to feed or root up the Soil of or otherwise damage any Bank or Banks belonging to the said Fen, then and in every such Case every Person so offending shall forfeit and pay to the said Commissioners any Sum not exceeding Two Shillings and Sixpence per Head for every Head of such Cattle, Stock or Swine, to be levied by Distress and Sale of such Cattle, Stock or Swine: Provided always, that nothing herein contained shall extend or be construed to extend so as to restrain or prevent the Person or Persons hiring any such Bank or Banks of the said Commissioners, from feeding the same with Sheep or Lambs or with Calves, not being more than One Year old.

Against
haling on the
Banks.

XLI. And be it further enacted, That if any Person or Persons shall at any Time hereafter hale with any Boat, Barge, Lighter or other Vessel against or along any of the Banks belonging to the said Fen, without Permission of Five or more of the said Commissioners, to be given in Writing and signed by them at some Meeting to be holden for that Purpose, in pursuance of Notice to be given in Manner hereinbefore directed, and specifying the Object of such Meeting, then and in every such Case every Person so offending and being convicted thereof before any Justice of the Peace for the said *Isle of Ely*, shall for every such Offence forfeit and pay any Sum not exceeding Ten Pounds.

Owners
accountable
for Damages
done by
Boatmen.

XLII. And be it further enacted, That the Master and Owner of Masters and Owners of every Boat, Barge, Lighter or other Vessel, navigating the River *Ouse*, by or near the Banks of the said Fen, shall be, and he, she and they is and are hereby made answerable for all Trespas, Damage, Spoil or Mischief that shall be done by such Boat, Barge, Lighter or other Vessel, or by any of the Boatmen, Bargemen, Watermen or other Person or Persons belonging to or employed in or about the same respectively, by any Means whatsoever, to any of the Banks, Mills or other Works belonging to the said Fen, or erected, maintained or repaired, or which shall at any Time hereafter be erected, maintained or repaired under the Authority of this Act by the said Commissioners; and the Master or Owner of every such Boat, Barge, Lighter or other Vessel, shall for every such Trespas, Damage or Spoil, or Mischief so committed as aforesaid, upon Conviction of the Boatman, Bargeman, Waterman or other Person or Persons committing the same, before any Justice of the Peace for the said *Isle of Ely*, on the Oath of any credible Witnesses or Witnesses, which Oath such Justice is hereby authorized to administer, or on the Confession of the Party or Parties offending, forfeit and pay to the said Commissioners such Damages, Satisfaction and Compensation as shall be ascertained, fixed and determined by such Justice, provided that such Damages, Satisfaction or Compensation shall not exceed the Sum of Fifty Pounds, and shall also forfeit and pay to the Informer or Informers any Sum not exceeding Forty Shillings, to be settled and determined by such Justice; but in case such Damages shall exceed the Sum of Fifty Pounds, the said Master or Owner of such Boat,

Boat, Barge, Lighter or other Vessel may be sued and prosecuted for such Damages, Satisfaction and Compensation in any of His Majesty's Courts of Record at *Westminster* or in the Court of Pleas for the said *Isle of Ely*; and if a Verdict or Judgment shall be given against him or her, either on Proof made or by Default or upon Demurrer, then and in every such Case the Plaintiff shall recover his Damages thereby sustained with full Costs of Suit.

XLIII. Provided always and be it further enacted, That every such Boatman, Bargeman, Waterman and other Person so offending as last aforesaid, shall repay all such Damages, Satisfaction, Compensation and Penalty so ascertained, fixed and determined by such Justices as aforesaid, with all the Costs of levying and recovering thereof to such Master or Masters, Owner or Owners; and in case of Non-payment thereof on Demand, and Oath made by such Master or Masters, Owner or Owners of the Payment made by him, her or them, of such Damages, Satisfaction, Compensation, Penalty and Costs, and that the same have been demanded of such Servant, Boatman, or Waterman respectively, but that the same have been repaid (such Oath to be made before any one of His Majesty's Justices of the Peace for the said *Isle of Ely*) the Amount thereof shall be recovered in like Manner as any Penalty is hereby directed to be levied and recovered, by Warrant under the Hand and Seal of such Justice.

Masters to recover from Boatmen.

XLIV. And be it further enacted, That it shall be lawful for the said Commissioners when and as often as they shall see Occasion, to open and scour out the present Ditch or Channel along the Washes from *Cawdle Fen* to the River *Ouse*, for the Purpose of protecting the said Fen from the Trespassings of Stock and Cattle, and of making a Boat Road for the Conveyance of Materials for the Repair of the said Bank, and otherwise for the Benefit of the said Fen; and also when and as often as they shall see Occasion to scour out the present Ditch from *Cawdle Fen* Sluice round Part of the aforesaid piece of Land called *The Holts* to the River *Ouse*.

Commissioners to scour the present Ditch from *Cawdle Fen* Bank to the River *Ouse* and from *Cawdle Fen* Sluice round the *Holts* to the *Ouse*.

XLV. And be it further enacted, That it shall be lawful for the said Commissioners to cause the said Fen to be surveyed and measured, and to pay the Expence of such Survey and Admeasurement out of any Monies which shall come to their Hands by virtue of this Act.

Land may be surveyed.

XLVI. And whereas the Churchwardens of the Parish of the *Holy Trinity* in *Ely* aforesaid, are seised of Twelve Acres Parcel of the said Fen called *Cawdle Fen*, in Trust for the Poor of the said Parish, and the aforesaid Governors of the Lands and Possessions of the Poor belonging to the said City or Town of *Ely* are seised of Six Acres other Parcel of the said Fen, in Trust for such last-mentioned Poor; be it further enacted, That it shall be lawful for such Churchwardens and Governors respectively for the Time being, to raise such Sum or Sums of Money by Mortgage or Demise of their said Lands respectively, for the Purpose of defraying so much of the Expence of obtaining this Act, and of making and executing the necessary Works for draining the said Fen, as they shall respectively actually have paid and advanced at the End of Three Years from the passing of this Act, according to a Certificate thereof to be

Churchwardens of *Ely Trinity* and Feoffees of *Ely Charity* Land, empowered to raise Money on their Estates in the Fen.

signed by the Treasurer of the said Commissioners, and indorsed upon such Mortgage respectively with the Interest thereof, from the Time or respective Times of advancing the same, and to repay the Principal and Interest Monies due on each such Mortgage respectively, together with the Costs and Expences of making such Mortgage, out of the Rents and Profits of the Land so mortgaged, or it shall be lawful for the said Churchwardens and Governors respectively at their Discretion to let their said Lands respectively by publick Auction, for any Term of Years not exceeding Twenty-one Years, to the best Bidder or Bidders who shall be willing to take the same, and to pay down all such Expences and also the highest annual Rent or Rents that shall be bidden for the same at such Auction, together with the Costs and Expences of such Lease and a Counterpart thereof, provided that in each such Lease the Tenant shall covenant to pay all Taxes and Outgoings in respect of the Land thereby demised, and to use the said Land in a fair and husband-like Manner during the whole of the Term, and not to plough the same within the last Three Years of the Term, but to have the same in Grass well laid down during the whole of such Three last Years, and provided that such Tenant shall and do execute a Counterpart of such Lease.

Recovery
and Applica-
tion of Pe-
nalties not
particularly
directed.

XLVII. And be it further enacted, That all Penalties and Forfeitures by this Act imposed (the Manner of levying whereof is not hereinbefore particularly directed) and all Costs and Charges attending the Recovery thereof, shall be levied and recovered by Distress and Sale of the Cattle, Corn, Hay, Goods, Chattels and Effects of the Offender or Offenders wheresoever the same shall be found, by Warrant under the Hand and Seal or Hands and Seals of One or more Justice or Justices of the Peace for the said *Ile of Ely*, which Warrant such Justice or Justices is and are hereby authorized and required to grant as often as shall be necessary, upon the Confession of the Party or on the Information of any credible Witness upon Oath (which Oath such Justice or Justices is and are hereby empowered and required to administer); and in case no sufficient Distress can be found, such Justice or Justices shall issue a Warrant under his or their Hand and Seal or Hands and Seals for the Apprehension of such Offender or Offenders, and shall commit such Offender or Offenders when brought before him or them to the Common Gaol or House of Correction for the said *Ile of Ely*, there to remain without Bail or Mainprize for any Term not exceeding Three Calendar Months, at the Discretion of such Justice or Justices, and all Penalties and Forfeitures by this Act imposed, if not hereby otherwise directed to be paid and applied, shall be paid to the Treasurer for the Time being to the said Commissioners, and shall be applied for the same Purposes as the Rates and Taxes charged upon the Lands within the said Fen are by this Act directed to be paid and applied.

Form of
Conviction
of Offenders.

XLVIII. And be it further enacted, That in all Cases where any Person or Persons shall be convicted of any Offence against this Act, the Conviction may be in the Words or to the Effect following; (*videlicet*)

Ile of Ely. **B**E it remembered, That on this _____ Day of _____
in the Year of our Lord _____
“ *A. B.* is duly convicted before _____ of His
“ Majesty’s Justices of the Peace for the said *Ile of Ely*, of having
“ [*here state the Offence as the Case may be*] contrary to the Form of the
“ Statute

“ Statute in that Case made and provided, and I [or we, *as the Case may be*] do declare and adjudge the said *A. B.* hath forfeited for his [or her, *as the Case may be*] said offence, the Sum of
 “ Given under my Hand and Seal [or our Hands and Seals, *as the Case may be*] the Day and Year first above written.”

XLIX. And be it further enacted, That in all Cases wherein Cognizance is given to any Justice or Justices of the Peace by this Act, it shall be lawful for such Justice or Justices of the Peace to administer an Oath to any Person or Persons for his or their more certain Information in the Matter then depending, and it shall be lawful for any Justice of the Peace to act as such in the Execution of this Act notwithstanding his being a Commissioner for the said Fen called *Cawdle Fen*: Provided always, that no Person shall act as a Justice of the Peace in the Execution of this Act in any Case where he shall be personally interested.

Justices may administer on Oath, and Commissioners being Justices may act as such in the Execution of this and the former Act.

L. And be it further enacted, That in all Actions, Prosecutions, Informations, Causes and Proceedings whatsoever, relating to or concerning the Execution of this Act, no Person or Persons shall be prevented from giving his, her or their Evidence, or be deemed or taken to be an incompetent Witness or Witnesses, on account of his, her or their being an Owner or Owners, or an Occupier or Occupiers of or otherwise interested in any of the Lands within the said Fen.

Justices not to act where interested. Evidence of Persons being Owners of Lands to be admitted.

LI. And be it further enacted, That the said Commissioners may and shall in all Cases sue and be sued in the Name of their Treasurer or Clerk, and no Action, Suit, Indictment, Information or Proceeding which shall or may be brought, commenced, preferred or filed, or prosecuted by or against the said Commissioners or any of them, by virtue or on account of any Thing done under or in pursuance of this Act, in the Name of any such Treasurer or Clerk, shall abate or be discontinued by the Death or Removal of any such Treasurer or Clerk, or by the Act of any such Treasurer or Clerk without the Consent of the said Commissioners, but the Treasurer or Clerk for the Time being to the said Commissioners shall always be deemed Plaintiff, Prosecutor or Defendant in such Action, Suit, Indictment, Information or Proceeding, as the Case may be: Provided always, that every such Treasurer and Clerk in whose Name any Action, Suit, Indictment, Information or Proceeding, shall be commenced, preferred, prosecuted or defended, in pursuance of this Act, shall always be reimbursed and paid out of the Taxes to be raised by virtue of this Act, all such Costs, Charges and Expences as he shall be put to or become chargeable with by reason of his being made Plaintiff, Prosecutor or Defendant therein.

Commissioners may sue and be sued in the Name of their Treasurer or Clerk.

Who are to be reimbursed their Expences.

LII. And be it further enacted, That if any Person or Persons shall think himself, herself or themselves aggrieved by any Thing done in pursuance of this Act, he, she or they may within Four Calendar Months next after the Cause of Complaint shall have arisen, appeal to the Justices of the Peace at the General Quarter Sessions, to be holden in and for the said *Isle of Ely*, first giving to the Person or Persons appealed against or to the Clerk of the said Commissioners, in case the Appeal shall be made against any Act or Determination of the said Commissioners, Twenty-one Days' Notice in Writing of such Appeal and of the Matter

Persons aggrieved may appeal to the Quarter Sessions.

[Loc. & Per.]

32 F.

thereof,

thereof, and forthwith after such Notice entering into a Recognizance before some Justice of the Peace for the *Isle of Ely*, with Two sufficient Sureties conditioned to try such Appeal, and to abide the Order and Award of the said Court thereon; and the said Justices shall upon due Proof of such Notice and Recognizance having been given and entered into, hear and determine the said Appeal at such General Quarter Sessions, or they may adjourn the hearing thereof to the next General Quarter Sessions to be holden for the said *Isle of Ely* at their Discretion; and the said Justices on the hearing and determining of every such Appeal, may award such Costs to the Party appealing or appealed against as the said Justices may think proper, and shall and may at their Discretion discharge or mitigate all or any of the Penalties or Forfeitures incurred by the Party or Parties appealing; and the Determination of the said Justices in such General Quarter Sessions of the Peace or Adjournment thereof, shall be final, binding and conclusive to all Intents and Purposes whatsoever.

Proceedings
not to be va-
cated for
want of Form
or removed
by *Certiorari*.

LIII. And be it further enacted, That no Order, Rate, Verdict, Assessment, Warrant or Notice of Distress, Judgment or Conviction, or other Proceeding touching or concerning any of the Matters aforesaid, or touching or concerning any Offence against this Act, shall be quashed or vacated for want of Form only, or be removed or removeable by *Certiorari* or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*; any Law or Statute to the contrary thereof in anywise notwithstanding.

Distresses no
unlawful for
want of Form.

LIV. And be it further enacted, That where any Distress shall be made by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties taking the same be deemed a Trespasser or Trespassers on account of any want of Form in the Warrant or Warrants of Distress and other Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity shall and may recover Satisfaction for the Special Damage in an Action on the Case.

Plaintiff not
to recover
without No-
tice or after
Tender of
Amends.

LV. Provided always, and be it further enacted, That no Plaintiff or Plaintiffs shall recover in any Action to be commenced against any Person or Persons for any Thing done in pursuance of this Act, unless Notice in Writing shall have been given to the Defendant or Defendants, Avowant or Avowants, or left at his, her or their last usual Place or Places of Abode Twenty-one Days before such Action shall be commenced, of such intended Action, signed by the Attorney for the Plaintiff or Plaintiffs, specifying the Cause of such Action, nor shall the Plaintiff or Plaintiffs recover in such Action if Tender of sufficient Amends shall have been made to him, her or them, or to his, her or their Attorney by or on behalf of the Defendant or Defendants, Avowant or Avowants, before such Action brought; and in case no such Tender shall have been made, it shall and may be lawful to and for the Defendant or Defendants, Avowant or Avowants in any Action, by Leave of the Court where such Action shall be brought, at any Time before Issue joined to pay into Court such Sum of Money as such Defendant or Defendants, Avowant or Avowants may be advised.

LVI.

LVI. And be it further enacted, That no Action or Suit shall be commenced or prosecuted against any Person or Persons for any Thing done in pursuance or by virtue of this Act, after the Expiration of Six Calendar Months after the Fact committed; and every such Action or Suit shall be laid or brought in the said County of *Cambridge*, or in the Court of Pleas for the *Ile of Ely* and not elsewhere; and the Defendant or Defendants in every such Action and Suit shall and may plead the General Issue, and if in Replevin, may justify and avow by virtue of this Act as Persons acting by Authority of Commissioners of Sewers are enabled to do, and may give this Act and the Special Matter in Evidence, without specially pleading the same otherwise than as aforesaid, at any Trial to be had thereupon, and that the Fact alleged in such Action or Suit to have been done was done in pursuance and by the Authority of this Act; and if upon the Trial of such Action or Suit the same shall appear to have been so done, or that such Action or Suit shall have been brought before the Expiration of Fourteen Days next after such Notice shall have been given as aforesaid, or shall be brought after the Time before limited for bringing the same, or after sufficient Satisfaction made or tendered as aforesaid, or shall be brought or laid in any other County or Place than as aforesaid, then and in every of the said Cases the Jury shall find for the Defendant or Defendants, Avowant or Avowants; and in all Cases where a Verdict shall be found for the Defendant or Defendants, Avowant or Avowants in such Action or Suit, or if the Plaintiff or Plaintiffs shall be nonsuited or discontinue his, her or their Suit or Suits, Action or Actions, after the Defendant or Defendants, Avowant or Avowants shall have appeared thereto, or if upon Demurrer Judgment shall be given against such Plaintiff or Plaintiffs, then and in every of the said Cases the Defendant or Defendants, Avowant or Avowants, shall recover Costs, and shall have such and the like Remedy for the Recovery thereof, as any Defendant or Defendants hath or have for recovering Costs of Suit in any other Cases by Law where Costs by Law are awarded.

Limitation of
Actions.

General
Issue.

LVII. Provided always, and it is hereby further enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, lessen, diminish, alter or take away any of the Rights, Powers or 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 said Governor, Bailiffs and Conservators, by virtue of an Act made in the Fifteenth Year of the Reign of King *Charles* the Second, intituled, *An Act for settling the Draining of the Great Level of the Fens called Bedford Level*, or by virtue of any other Act or Statute whatsoever, but that all Rights, Powers and Authorities whatsoever, which by virtue of the said Act of the Fifteenth Year of King *Charles* the Second, or of any other Act or Statute whatsoever, now are vested in the said Governor, Bailiffs and Commonalty, or in the said Governor, Bailiffs and Conservators, or any of them, shall for ever hereafter remain, continue and be in the said Governor, Bailiffs and Commonalty, and in the said Governor, Bailiffs and Conservators, and every of them, as fully and amply to all Intents and Purposes as if this Act had never been made.

Preserving
Rights of the
Corporation
of Bedford
Level.

LVIII. And be it further enacted, That all the Powers, Provisions, Penalties, Exemptions, Matters and Things, contained in or prescribed or appointed by the said recited Act of the Eleventh Year of the Reign

Extending
the Provi-
sions of the
former Act to
of this Act.

of His late Majesty, not hereby taken away, altered or repealed, shall, so far as respects the said Fen, be of full Force and Effect, and shall extend and be applicable to this Act, and to the Taxes, Rates and Assessments, hereby granted or authorized to be laid and imposed, and to the Penalties for Non-payment thereof, and to the Remedies for Recovery of the said Taxes, Rates, Assessments and Penalties, and to all other the Provisions, Penalties, Exemptions, Matters and Things herein contained, and shall be executed with this Act, as fully and effectually to all Intents and Purposes as if the same were herein repeated and re-enacted.

Rights of the
Lords of
Manors re-
served.

LIX. Provided always, and be it further enacted, That all such Right or Rights as any Lord or Lords, Lady or Ladies, of any Manor or Manors, Liberties, Hundred or Half-hundred, have heretofore had within his, her or their respective Manor or Manors, Liberties, Hundred or Half-hundred, within or without the said Boundaries, Waifs, Estrays, Felons, Goods, Privileges of Arrests, Escheats and all Royalties not prejudicial to draining, be hereby saved to them, their Heirs, Successors and Assigns, severally and respectively; any Thing in this or the said recited Act to the contrary thereof notwithstanding.

Publick Act.

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

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