CHAPTER ccxiii.

An Act for embanking, and for dividing, allotting, and inclosing Lands in the parish of Gedney in the county of Lincoln. [28th July 1873.]

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WHEREAS by an Act passed in the thirty-first year of the reign of His Majesty King George the Third, intituled "An Act for "dividing and inclosing the common marshes, droves, waste lands, "and grounds in the parish of Gedney and hamlet thereof, called "Gedney Fen, in the county of Lincoln," certain persons therein named, and their successors to be elected in manner therein mentioned, were appointed commissioners for dividing and allotting certain open fresh and salt marshes, droves, waste lands, and grounds in the parish of Gedney and hamlet thereof, called Gedney Fen, otherwise Gedney Hill, in the county of Lincoln, containing together about fifteen hundred acres, and for allotting the same unto and amongst the lords of the several manors of Gedney Abbott, Gedney Burlion, Gedney Pawlett, and Gedney Welby, in the parish and hamlet aforesaid, and the proprietors of commonable messuages and tofts in the parish and hamlet aforesaid having right of common thereon; and provision was made for the postponement of the division, allotment, and inclosure of the common marsh thereby intended to be divided, allotted, and inclosed, until an embankment of the said salt marsh, together with other salt marshes adjoining, should take place:

And whereas by an Act passed in the thirty-third year of the reign of His Majesty King George the Third, intituled "An Act "for embanking and draining certain salt marshes and low lands "within the several parishes of Spalding, Moulton, Whaplode, "Holbech, and Gedney, in the county of Lincoln, and for prevent-"ing the same marshes and lands from being overflowed with the "sea, and for altering an Act passed in the thirty-first year of the "reign of His present Majesty, intituled 'An Act for dividing and "'inclosing the commons, marshes, droves, waste lands, and "'grounds in the parish of Gedney and hamlet thereof, called

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" ' Gedney Fen, in the county of Lincoln,' " certain persons therein named, and their successors to be elected in manner therein mentioned, were appointed commissioners for embanking and draining the said common marsh comprised within the operation of the said first-recited Act (the division, allotment, and inclosure whereof had been postponed pursuant to the power in that behalf in the same Act contained), and certain other salt marshes adjoining; and by section three it was enacted, that the commoners or persons interested in the commonable salt marsh of Gedney, or in the allotments that might be made thereof under the authority of any other Act or Acts of Parliament, either for an estate of freehold or inheritance in possession, or as lessees under beneficial leases, should and they or their agents appointed in writing were thereby empowered to hold a meeting annually in the parish church of Gedney on Easter Monday in every year; and the said commoners or persons interested as aforesaid, or their agents, who should be present at such meeting as aforesaid, or the major part of them there present, should appoint under their respective hands two persons as delegates for the commoners or persons interested in the said commonable salt marsh, or in the allotments that might in like manner be made thereof, and which said delegates, or any of them so appointed as aforesaid, should have full power and they were thereby authorised and required to vote in the election of any new commissioner, and also to act as trustees together with the other trustees thereby appointed for the purpose therein-after mentioned, together with the several other persons authorised by that Act to vote and act on those occasions; and it was by section eleven provided that all such future accretions of salt marsh fronting the commonable salt marsh in the parish of Gedney (except so much as would become the property of the Earl of Buckinghamshire, as therein-after provided for,) should be vested in the several persons entitled to rights or interests in the said commonable salt marsh therein directed to be embanked in such and the same proportions and interests which such persons then respectively had or enjoyed in the said commonable salt marsh therein directed to be embanked:

And whereas the said commonable salt marsh comprised within the operation of the said first-recited Act was embanked under the provisions of the said secondly-recited Act, and by an award bearing date the seventh day of November one thousand seven hundred and ninety-five, and made in pursuance of the said first-recited Act, the commissioners set out and allotted the droves, waste lands, and grounds, and part of the common marsh in the said parish of Gedney and hamlet thereof, called Gedney Fen, to the lords of

manors and proprietors of commonable messuages and tofts therein mentioned, the several and respective allotments therein particularly set forth and described containing in the whole by admeasurement nine hundred and fifty-seven acres three roods and thirty-six perches, and by a further award, bearing date the fifteenth day of November one thousand seven hundred and ninety-nine, and made in pursuance of the same Act, the commissioners set out and allotted in like manner the remainder of the common marsh, which contained in the whole by admeasurement (exclusive of roads and drains) three hundred and eighty-six acres three roods and twenty-seven perches, and also set out and allotted a parcel of land containing two acres as a lodge or shelter for such cattle and sheep as should at any time be depasturing upon the future accretions of salt marsh next the sea:

And whereas, in pursuance of the said first-recited Act, the said awards were respectively enrolled with the clerk of the peace for the parts of Holland in the county of Lincoln:

And whereas by an Act passed in the fifty-second year of the reign of His Majesty King George the Third, intituled "An Act for "amending and rendering more effectual an Act of the thirty-third "year of the reign of His present Majesty for embanking and "draining certain salt marshes in the parishes of Spalding, "Moulton, Whaplode, Holbech, and Gedney, in the county of "Lincoln, and also for repealing so much of an Act of the thirty-"fourth year of His present Majesty as affects the marshes and "sands on the outside of the sea bank lately made by virtue of the "first-mentioned Act," it was, for the convenience of the persons interested, by section nine enacted that it should and might be lawful for the delegates for the time being acting under the directions of the said Embankment Act or that Act for the commoners or persons interested in the late commonable salt marshes of Gedney, or in the allotments thereof, and they were thereby authorised and empowered to let by public auction, and to demise for any term or number of years not exceeding five years from the time of such letting, either for grass or tillage, under such restrictions, regulations, covenants, and agreements as they might think proper, a certain parcel of land lying in the said late commonable salt marsh of Gedney aforesaid called The Lodge, containing two acres or thereabouts, and also in like manner and for the like term to let and demise the grass or herbage of the open commonable salt marshes of Gedney lying on the north side of the new sea bank, or any part or parts thereof, for feeding, freed and discharged from all right of common thereon, but under such restrictions, regulations, covenants, and agreements as they might think necessary, and the same

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delegates for the time being were thereby required from time to time to apply and dispose of the rents, issues, and profits to arise by letting the said lands respectively in manner following; videlicet, first, in defraying all expenses that might be incurred in letting the said lands, and then in defraying all charges and expenses of making, repairing, and supporting such fences, tunnels, sluices, bridges, inlets, outlets, and other works in, upon, and over the said open common salt marshes as the said delegates for the time being should from time to time judge proper and necessary for the occupation or improvement of the same, and to pay and divide the residue and surplus, if any, of the said rents, issues, and profits in manner following; videlicet, one equal fifth part thereof to and amongst the lords of the several manors in Gedney aforesaid, in proportion to the number of the ancient commonable messuages and tofts within each of the said manors, and the remaining four fifth parts thereof to and amongst the owners and proprietors of the said ancient commonable messuages and tofts in the parish of Gedney and hamlet of Gedney Hill, or to and amongst such other persons as would on any division and inclosure of the said open common salt marshes be entitled to allotments of land in respect of the said messuages and tofts, or in respect of any sale or disposition theretofore made or thereafter to be made of the right of common belonging thereto, such ancient commonable messuages and tofts to be ascertained and settled according to the award made by the commissioners under the said Act of the thirty-first year aforesaid for the inclosure of the common marshes, droves, waste lands, and grounds in Gedney aforesaid; and it was by section ten provided, that if at any time or times thereafter the persons interested should be minded and desirous of determining the powers and authorities thereby given for letting or demising the said parcel of land called The Lodge, and the grass and herbage of the said open common salt marshes of Gedney, or any part thereof, it should and might be lawful to and for the majority of the persons authorised by virtue of the said Embankment Act to elect such delegates as aforesaid at any annual meeting to be holden on Easter Monday, pursuant to the directions of the same Act, (one month's notice being given of the matter intended to be discussed at such meeting by advertisement in some newspaper circulating in the county of Lincoln, and by affixing the same on the church door of Gedney aforesaid,) by an order or resolution under their hands to direct and determine that the said lands, or any part or parts thereof, should not in future be let or demised by the said delegates for the time being under the powers and authorities therein-before given, and after the expiration or determination of the then subsisting contracts or

agreements the lands not in future to be let or demised should be occupied and enjoyed by such persons as might then be entitled thereto in such manner as if the same had never been let or demised:

And whereas by an Act passed in the fourteenth and fifteenth years of the reign of Her present Majesty Queen Victoria, chapter one hundred and thirty-six, commonly called "The Lincolnshire Estuary Act, 1851," after reciting that considerable tracts of land abutting on part of the coast of the county of Lincoln, within that division of the said county which is known as the parts of Holland, were then unproductive and covered by the sea at high water, and were capable of being reclaimed and converted to agricultural purposes; and after reciting that certain marsh lands or salt marshes situate within the said parts of Holland immediately adjoining the lands so to be reclaimed from the sea, and which were also subject to be occasionally covered with water, would be greatly benefited and increased in value and productiveness by the works necessary to be executed and maintained for reclaiming such first-mentioned lands, the Lincolnshire Estuary Company was incorporated for reclaiming from the sea the lands intended to be reclaimed, and for the execution and maintenance of the works by that Act authorised; and after reciting that the commoners of Gedney in the parts of Holland in the county of Lincoln claimed to be entitled to certain parts of the tracts of land intended to be reclaimed from the sea under or by virtue of that Act, which for the purposes of that Act might be defined as the lands or sands fronting the then bank inclosing Gedney Common, as the same were bounded on the north by Daws Meer Creek, on the south by Boat Meer Old Creek, and on the east by the sea, and which 'are herein-after referred to as the Gedney commoners lands and sands, and that it had been proposed that the said company should embank, at their own expense, all the said marsh lands and sands claimed by the said commoners of Gedney when fit for embanking, and should allot to the said commoners of Gedney, free of expense to the said commoners of Gedney, five hundred and fifty acres, part of the said marsh lands and sands, and immediately fronting and as nearly parallel as might be to the then Gedney Common Bank inclosing Gedney Common, and bounded as aforesaid, and should make a proper division drain and fence thereto, and that in consideration thereof the residue of the said marsh lands and sands should, upon such allotment being made to the said commoners of Gedney, belong to and be vested in the said company, freed from all claims to or on such residue on the part of the said commoners of Gedney, or any persons claiming under them; it was by section seventy enacted, that

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five hundred and fifty acres, exclusive of banks and forelands appurtenant to such five hundred and fifty acres, and of any public road or public drain to be set out or made across the allotment to be made to the said commoners of Gedney under any of the provisions of that Act, to be allotted and set out in manner therein mentioned, out of such of the said marsh lands and sands intended to be reclaimed under the authority of that Act as should be bounded on the north by Daws Meer Creek, on the south by Boat Meer Old Creek, on the east by the lands and sands intended to be reclaimed, and on the west by Gedney Common Bank, should, from and immediately after the passing of that Act, belong to and be and remain vested in the said commoners of Gedney, to be held and enjoyed by them according to the nature and quality of their estate, interest, and trusts in the then present unembanked marsh lands of them the said commoners of Gedney in the parish of Gedney, and that the said last-mentioned lands and sands which should be so respectively set out and allotted to and for the said commoners of Gedney as aforesaid should be and at all times thereafter deemed to be and situate in the parish of Gedney aforesaid, and that the same when so set out and allotted should be in full satisfaction and discharge of all the right and title of the said commoners of Gedney to the residue of the tracts of land intended under the authority of that Act to be reclaimed and embanked, or any part or parts thereof; and it was by section eighty-six enacted, that in case the said company should not within ten years after the passing of that Act have inclosed and embanked the said marsh lands and sands for the said respective therein-mentioned claimants, including among others the commoners of Gedney in respect of the said Gedney commoners lands and sands as by that Act directed, then the said respective claimants might, after the expiration of the said ten years, and after leaving at the office of the said company six calendar months previous notice in writing of their intention so to do, proceed to inclose, reclaim, and embank all or such parts of the said marsh lands and sands respectively belonging to them as the said company should then have failed to inclose, reclaim, and embank according to the provisions therein contained, and that from thenceforth the whole of the said marsh lands and sands respectively so directed to be embanked should to all intents and purposes whatsoever belong to and be and remain vested in the said claimants respectively as if that Act had not been passed, free (so far as concerned the claimants the said commoners of Gedney) from all claim by the said company in respect of the said inclosure and embankment; and it was by section eighty-seven enacted, that, subject to the

rights of Her Majesty as therein reserved or provided for, the several tracts of land so intended to be reclaimed from the sea, except as to the allotments therein specially directed to be made, should be and remain vested in the company:

And whereas no provision was made by the said last-recited Act for ascertaining the rights and interests of the lords of the several manors in Gedney aforesaid, and the owners and proprietors of the several ancient commonable messuages and tofts in the said parish of Gedney and hamlet of Gedney Hill, or of such other persons as would be entitled to allotments of land in respect of the said messuages and tofts, or in respect of any sale or disposition theretofore made or thereafter to be made of the rights of common belonging thereto of and in the said five hundred and fifty acres of land to be allotted and set out in manner in the same Act mentioned, except so far as the said lords, owners, and proprietors and other persons were included under the general title of the commoners of Gedney in the same Act contained:

And whereas the said company has not exercised the powers vested in them by the said last-recited Act, nor proceeded with the embankment of the lands mentioned and defined therein, and the said company has no office or place of business, and has in fact ceased to exist:

And whereas it is expedient that the provisions of the said last-recited Act, so far as relates to the allotment of a specific portion only of the lands or sands fronting the bank inclosing Gedney Common, bounded on the north by Daws Meer Creek, on the south by Boat Meer Old Creek, and on the east by the sea, and the vesting of the residue of the said lands or sands in the said company, should be repealed, and that provision should be made for the reclamation and embankment of the said lands and sands from the sea, and for the division and allotment of the said lands and sands when embanked:

And whereas the parcel of land marked number ten in the plan herein-after referred to formed part of the Gedney commoners lands and sands at the time of the passing of the said last-recited Act, but has since been embanked by agreement between the persons interested in the said Gedney commoners lands and sands and other persons, and the persons interested in the said Gedney commoners lands and sands are entitled to the same parcel of land; and it is expedient that the same, together with the parcels of land marked numbers two, three, eight D, fourteen, and fifteen on the said plan, to which the said last-mentioned persons are also entitled, and the parcel of land marked number four on the said plan, being the

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parcel of land set out and allotted as a lodge or shelter for cattle and sheep as aforesaid, to which the said last-mentioned persons are also entitled, and the parcels of land marked numbers one, five, and eleven on the said plan, being sea banks, which will be rendered unnecessary as such by the operation of the works by this Act authorised, should be included within the operation of this Act, and that the powers of the delegates and the Commissioner herein-after mentioned should extend to all the same several parcels of land, and that the same should be divided and allotted as if the same formed part of the Gedney commoners lands and sands, and the same are herein-after included in the expression lands and sands:

And whereas the several persons interested in or entitled to the said lands and sands are the lords of the several manors of Gedney Abbott, Gedney Burlion, Gedney Pawlett, and Gedney Welby, in Gedney aforesaid, and the owners and proprietors of ancient commonable messuages and tofts in the parish of Gedney and hamlet of Gedney Hill, or such other persons as would, on any division and inclosure of the said lands and sands, be entitled to allotments of land in respect of the said messuages and tofts, or in respect of any sale or disposition heretofore made, or hereafter to be made, of the rights of common belonging thereto respectively, such ancient commonable messuages and tofts to be ascertained and settled according to the award made by the commissioners under the said first-recited Act:

And whereas it is expedient that the powers given to the delegates appointed under the said secondly-recited Act should be varied and extended:

And whereas a plan of the lands and sands proposed to be embanked, divided, and allotted as aforesaid has been signed by the Right Honourable John Thomas Baron Redesdale, the Chairman of Committees of the House of Lords, and deposited in the office of the Clerk of the Parliaments, and a duplicate thereof has been deposited with the clerk of the peace for the parts of Holland in the county of Lincoln, which duplicate so deposited as aforesaid is herein-after called the deposited plan:

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 ;" and it is advisable that the powers contained in the two last-mentioned Acts, or some of them, should be incorporated in this Act :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

Short title.

1. This Act may be cited for all purposes as "The Gedney Inclosure Act, 1873."

Recited Inclosure Acts to form part of this Act.

2. 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 respectively deemed to be and shall be respectively executed as parts 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 the Act.

Repeal of section 10 of recited Act of 52 G. 3.

3. The tenth section of the said thirdly-recited Act is hereby repealed.

Repeal of section 70 of the Lincolnshire Estuary Act.

4. The seventieth section of "The Lincolnshire Estuary Act, 1851," is hereby repealed, and the Lincolnshire Estuary Company shall not, after the passing of this Act, have any right, claim, or interest whatsoever in all or any part of the lands and sands in the same section mentioned.

Interpretation of terms.

5. In this Act the following words and expressions shall have the meanings hereby assigned, unless there be anything in the subject or context repugnant to such construction ; (that is to say,)

The words "lords and commoners" shall mean the lords of the several manors of Gedney Abbott, Gedney Burlion, Gedney Pawlett, and Gedney Welby, in Gedney aforesaid, and the owners and proprietors of ancient commonable messuages and tofts in the parish of Gedney and hamlet of Gedney Hill, or such other persons as would, on any division and inclosure of the Gedney commoners lands and sands, be entitled to allotments of land in respect of the said messuages and tofts, or in respect of any sale or disposition heretofore made or hereafter to be made of the rights of common belonging thereto respectively, such ancient commonable messuages and tofts to be ascertained and settled according to the award made by the commissioners under the said first-recited Act :

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The words "lands to be reclaimed" shall mean the Gedney commoners lands and sands comprised within the operation of the Lincolnshire Estuary Act, 1851, being the lands marked numbers six, seven, eight, nine, ten, twelve, and thirteen on the deposited plan, and shall also mean the pieces of land marked numbers one, two, three, four, five, eight D, eleven, fourteen, and fifteen on the deposited plan, but not the pieces of land marked numbers three A, eight A, eight B, eight C, fourteen A, fifteen A, sixteen, and seventeen on the deposited plan:

The words "the delegates" shall mean the delegates for the time being acting for or on behalf of the commoners of Gedney under the said secondly-recited Act and this Act:

The words "the Commissioner" shall mean the Commissioner for the time being acting under this Act:

The words "two justices" shall mean two of Her Majesty's justices of the peace for the parts of Holland in the county of Lincoln sitting in petty sessions for the petty sessional division in which the parish of Gedney shall for the time being be situate, or the majority of Her Majesty's justices sitting as aforesaid when the number sitting shall exceed two.

Clerk of peace to allow inspection of deposited plan.

6. The clerk of the peace for the parts of Holland in the county of Lincoln shall allow all persons interested to inspect the deposited plan, and to make copies and extracts of the same, in like manner, on like terms, and under like penalty for default as provided by the Act of the first year of Her present Majesty, chapter eighty-three, with respect to documents therein referred to.

Copies, &c. of deposited plan to be evidence.

7. Copies or extracts of the deposited plan, certified by the clerk of the peace to be correct, (and which he shall give to all parties interested when required,) shall be received in all courts of justice and elsewhere as evidence of the contents thereof.

Other notices how to be given.

8. All notices necessary or requisite to be made or given for the purposes of this Act shall be made or given by writing to be affixed on the principal outer door of the parish church of Gedney, and by advertisement in some newspaper circulating in the county of Lincoln.

As to future appointments of delegates.

9. Every appointment of delegates made after the passing of this Act shall be by a resolution carried by a majority of the votes of the lords and commoners present, by themselves or their agents or proxies appointed in writing, at the meeting for the appointment of delegates prescribed by the secondly-recited Act.

Consent of lords and commoners,

10. Every consent of the lords and commoners requisite to be given for the purposes of this Act shall be by a resolution carried

by a majority of the votes of the lords and commoners present, by themselves or their agents or proxies appointed in writing, at a meeting of which at least eight days previous notice shall be given by the delegates, to be held at some convenient place in the parish of Gedney.

how to be given.

11. At each meeting for the appointment of delegates, and at each meeting of the lords and commoners held after the passing of this Act, the lords of the said manors shall be entitled to two votes in respect of each manor belonging to them respectively, and the owners and proprietors of ancient commonable messuages and tofts, or such other persons as would on any division and inclosure as aforesaid be entitled to allotments of land in respect of such messuages and tofts, or in respect of any sale or disposition heretofore made or hereafter to be made of the rights of common belonging thereto (such messuages and tofts to be ascertained and settled as aforesaid), shall be entitled to one vote in respect of each messuage or toft or right of common.

Votes at meetings of lords and commoners.

12. The guardian, trustee, committee of the estate, or husband respectively of any of the lords and commoners who shall be an infant, lunatic, idiot, femme covert, or under any other legal disability, shall for the purposes of this Act be substituted in his or her place, and be authorised to act on his or her behalf, and in the case of any lord or commoner who shall be beyond the seas his attorney appointed in writing shall in like manner be substituted and authorised to act.

As to persons under disability.

13. The delegates may from time to time, with the consent of the lords and commoners, embank all or any part or parts of the lands to be reclaimed, and for the purposes of each such embankment, and for draining and preserving the lands when embanked, the delegates may from time to time make, alter, and maintain all such banks, drains, ditches, dams, sluices, tunnels, bridges, staunches, outlets, engines, and other works in, upon, through, and over the lands to be reclaimed as they may think necessary, and may connect each end or extremity of any new bank or banks with the present outward or sea bank, at such part or parts thereof as the delegates may judge expedient; and the delegates may from time to time make such provision as they shall think necessary for the drainage of the lands now draining by Boat Meer Creek and Daws Meer Creek respectively through the lands to be reclaimed by new drains and sluices in continuation of or in substitution for the present drains and outlets for the drainage of the said lands respectively; and the delegates may from time to time erect jetties or groins of such materials and dimensions as they think

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proper on any part of the lands to be reclaimed for the time being remaining unembanked, and do all such things as may be necessary for warping and raising the same and making the same fit for embanking, and for levelling and filling up the creeks in the land embanked, but so, nevertheless, that such jetties and groins shall be so erected as not in any way to impede, divert, interfere with, or affect the said Boat Meer Creek and Daws Meer Creek respectively, or the course, channel, or flow thereof respectively; and the delegates may from time to time enter into all such contracts for the execution of the works to be made under the authority of this Act as they in their discretion shall think expedient.

Power to make agreements as to banks and works.

14. The delegates and the owners for the time being of the lands numbered three A, eight A, eight B, eight C, fourteen A, fifteen A, sixteen, and seventeen on the deposited plan may from time to time enter into agreements as to the construction and maintenance, or either of such objects, of any banks or works in connexion with the banks or works of the delegates, and of such owners respectively, or for the protection of the property vested in or under the control of the delegates, and the property of such owners respectively; and the delegates and such owners may from time to time give or take in exchange any lands, and may give or receive money for

Power to exchange lands.

equality of exchange, and every such agreement and exchange shall be binding in the same manner as if the delegates and such owners were together absolute owners of the property, banks, and works comprised in or affected by such agreement or exchange; and any money payable by or to the delegates under any such agreement or exchange shall be raised or applied in the same manner in which money raised or applied by them under this Act is herein directed to be raised or applied.

Owners of old embanked lands may drain through new sluices.

15. The owners and proprietors of lands now draining their waters by and through Boat Meer Creek and Daws Meer Creek respectively shall have the same or the like right of draining such waters through the lands to be reclaimed by any new drains and sluices to be made in continuation of or in substitution for the present drains and outlets as they now have to drain such waters by or through the said present drains and outlets, and all such new sluices shall be made of sufficient capacity, and the drains communicating therewith of sufficient width and depth, and the sills of any such new sluices shall be laid not less than twelve inches lower than the sills of the present sluices respectively.

Before making new sluice, plan to be depo-

16. Provided always, that at least one month before commencing the making of any such new sluices or drains, the delegates shall prepare or cause to be prepared a plan or plans of such new

sluices or drains, and shall deposit a copy of such plan or plans, with admeasurements and dimensions shown, with the clerk of the peace for the parts of Holland in the county of Lincoln, to the end that recourse may be had to the same by all persons interested, on payment of a fee for each inspection of one shilling, and shall give notice of the intention to make such new sluices or drains, with an intimation of the deposit of the said plan or plans with the said clerk of the peace; and in case any such owner or proprietor shall be dissatisfied with the sufficiency of the capacity of any such proposed new sluices, or the sufficiency of the width and depth of any such proposed new drains, he shall give notice thereof to the delegates, with a statement of the grounds of his objections, within three weeks from the date of the giving of the said notice by the delegates, and failing the giving of such notice by any such owner or proprietor, he shall be precluded from disputing the sufficiency of the said sluices and drains as aforesaid; and in the event of such notice by any such owner or proprietor, and failing agreement, the matters so in difference between the delegates and such owner or proprietor shall be determined by two justices.

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Deposited with clerk of peace.

17. Nothing in this Act contained shall extend or be construed to extend to authorise the delegates or the Commissioner or any other person to intermeddle in any way otherwise than is herein provided with any of the banks, drains, ditches, sluices, tunnels, bridges, or other works constructed under the provisions of the recited Acts, or any of them.

Delegates not to intermeddle with present works.

18. It shall be lawful for any persons who shall be authorised by the delegates, by writing under their hands, after their powers shall have come into operation under the provisions of this Act, (which authority the delegates are hereby empowered from time to time to grant,) to cut, dig, take, and carry away, or cause to be cut, dug, taken, or carried away, any quantity of earth or materials proper for the purpose of embanking the lands to be reclaimed in, upon, out of, or from any of the lands to be reclaimed, or, with the consent of the owners and occupiers thereof, out of or from the lands of any persons whomsoever where the same can be found, and such reasonable satisfaction for the cutting, digging, and taking of earth or other materials from the said last-mentioned lands for the purposes of this Act shall be made to the owners and occupiers of such lands for the damages they shall thereby sustain as shall be agreed upon between the delegates and the owners and occupiers of such lands, and if such owners or occupiers cannot agree with the delegates concerning the amount of such damages, then the same shall be assessed or judged, and finally determined, by two justices.

Power to dig lands for banks.

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Engines, &c. in whom to be vested.

19. All the banks, drains, ditches, dams, sluices, tunnels, bridges, staunches, outlets, engines, and other works which shall be made under the authority of this Act in, upon, through, and over the lands to be reclaimed, and the right and property to and in such engines, and the materials of which the same shall consist, shall be and they are hereby vested in the delegates, and the delegates may bring or cause to be brought any action or actions, suit or suits at law or in equity, in their own names or in the name of any one of them, or prefer or order and direct the preferring of indictments or other prosecutions against any person or persons who shall dig up, break, or pull down, steal, take, carry away, destroy, spoil, or injure the said works, or any of them, or any part thereof, or any of the materials of which the same shall be built or consist.

Banks not to be stocked otherwise than with sheep.

20. For the preservation of the works made under the authority of this Act, it shall be lawful for any person whomsoever to drive any horses, swine, or cattle, except sheep, which shall be found upon any bank made under the authority of this Act, to the common pound or fold of the parish of Gedney, and the pindar or fold-keeper of the said parish is hereby directed to impound and hold the same in his custody, and to feed the same whilst in his custody, and the same shall not be repleviable, but shall remain in the custody of the pindar or fold-keeper for the time being until he shall have been paid for each and every of such swine so impounded the penalty or sum of ten shillings, and for each and every of such horses or other cattle so impounded the penalty or sum of one pound, together with all costs of taking, impounding, and feeding the same respectively during the time they shall remain impounded, and if the penalty, together with such costs, shall not be paid within the space of fourteen days after the time of the delivering such horses, swine, or cattle to the said pindar or fold-keeper, it shall be lawful for the delegates at any time thereafter to sell or cause to be sold the distress so impounded, by auction, at the market town nearest such common pound or fold, on some market day between the hours of twelve at noon and two in the afternoon, and to apply the money arising from such sale in the first place in payment of all costs and charges attending the impounding, detaining, keeping, and feeding the said horses, swine, or cattle so impounded, and the sale and disposal thereof, and in the next place in payment and satisfaction of the said penalty or penalties incurred, and in case there shall be any surplus the same shall be paid to and remain in the hands of the delegates, to be by them returned and paid to the owner or owners of the said horses, swine, or cattle so impounded, on demand.

Power to protect works.

21. The delegates may from time to time either before or after making any rate or assessment intended for the purpose of dis-

charging the expenses to be thereby occasioned, cause such repairs and amendments in and to all or any of the works made by them under the authority of this Act to be made, done, and executed as in their judgment may be proper and necessary for the protection, care, and due preservation and support of such works, and of the lands to be reclaimed, and may from time to time pay and discharge the expenses of all such repairs and amendments out of the moneys raised or to be raised by any rate or assessment, or to be received by them under this Act.

Delegates may appoint proper officers.

22. The delegates may from time to time, by writing under their hands, nominate and appoint one or more proper person or persons to be collector or collectors, receiver or receivers, of the respective taxes and rates to be assessed and levied by virtue of this Act, and an auditor or auditors, a clerk or clerks, and such necessary officer or officers as they shall judge proper for the management and keeping in repair of the works to be made under the authority of this Act, and to remove from time to time any such person or persons so nominated and appointed; and may allow such person or persons so nominated or appointed as aforesaid such yearly or other salary or salaries or wages for their trouble and pains in executing such offices as the delegates shall think fit and reasonable; which said collector or collectors, receiver or receivers, auditor or auditors, clerk or clerks, or other officer or officers, shall, before they act in the execution of their respective offices, give such security for the due execution thereof as the delegates shall require; and all such collectors, receivers, auditors, clerks, and other officers, when thereunto required by the delegates, shall give in to the delegates a true, exact, and perfect account in writing under their respective hands, with proper vouchers for all moneys which shall have been received and paid by them respectively by virtue of their said offices to the time of giving in such account, and shall pay to the delegates, or to such person or persons as they shall by writing under their hands authorise to receive the same, all such money as shall, upon balancing the said account, be due from such officers respectively, and deliver up the said vouchers and all books and writings relating to the said offices to the delegates; and in case any such collector, receiver, auditor, or clerk, or other officer shall not give in and make such account and payment as aforesaid, or shall neglect or refuse to deliver up all such books and writings to the said delegates, or to such other person or persons as they shall order and direct to receive the same, then and in either of the said cases it shall and may be lawful for two justices to make inquiry of such default in a summary way, and if such officer or officers shall be thereof convicted, either by the confession of the party or the

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testimony of one other witness or witnesses upon oath (which oath the said justices are hereby authorised and required to administer), such justices shall commit the party to any common gaol within the said parts of Holland, there to remain until he shall have made a perfect account and payment as aforesaid and deliver up all such books and writings in his custody, or shall have compounded and agreed with the delegates, which composition and agreement the delegates are hereby respectively empowered to make; provided that the term of such imprisonment shall in no case exceed three months.

Expense of passing Act and making works to be raised by mortgage.

23. For defraying the costs, charges, and expenses attending the obtaining and passing of this Act, and the making of the several works to be executed by the delegates under the authority of this Act, and the costs, charges, and expenses of and incident to the mortgages made by the delegates under the authority of this Act, the delegates may from time to time, with the consent of the lords and commoners in public meeting assembled, borrow and take up at interest, of any person or persons willing to advance or lend the same, such sum or sums of money as shall from time to time be necessary; and for securing the repayment of any such sum or sums of money so to be raised, with interest, the delegates may, at any time or times prior to any division and allotment of any part or parts of the lands to be reclaimed in manner herein-after provided, mortgage the same, or any part or parts thereof, with or without power of sale, unto such person or persons, his or their heirs and assigns, as shall advance or lend such sum or sums of money respectively, so as every such mortgage be made with a proviso or condition to be void in case such sum or sums of money thereby to be secured, with the interest thereof, shall be fully paid and satisfied at a time or times to be appointed in that behalf; and such person or persons advancing or lending such money, or any part thereof, shall not be obliged to inquire whether any such consent has been given as aforesaid, or to see to the application or be in anywise answerable for the misapplication of the money so advanced or lent, or any part thereof, nor shall he or they, nor any person or persons claiming through him or them, be affected by any irregularity or invalidity in the costs, charges, or expenses for or towards the payment of which, or any portion of which, such money shall be advanced, or in any such consent as aforesaid, or by the absence or want of any such consent as aforesaid.

All such mortgages shall be valid.

24. Every such mortgage as aforesaid shall be good, valid, and effectual in the law for the purposes thereby intended, notwithstanding any settlement, will, use, trust, remainder, limitation, or incumbrance not being a mortgage previously made by the delegates

of or concerning the lands to be reclaimed, or any part or parts thereof, now or then in being or capable of taking effect to the contrary; but, except for such purposes, no such mortgage, nor anything in this Act contained, shall revoke, annul, make void, vary, alter, or in anywise affect any such settlement, will, use, trust, remainder, limitation, or incumbrance.

Power for letting the lands, and directing the appropriation of the rents and profits.

25. The delegates may from time to time, prior to any division and allotment of the lands to be reclaimed in manner herein-after provided, let the same, or any part thereof, by public auction or by private contract, and either for one year or from year to year, for any term or number of years not exceeding seven years from the time of such letting, either for grass or tillage, under such restrictions, regulations, covenants, and agreements as they may think proper, and the delegates shall from time to time apply and dispose of the rents, issues, and profits to arise by letting the lands respectively in manner following; videlicet, first, in defraying all expenses incurred in letting the said lands, and then in defraying the costs, charges, and expenses of amending, repairing, and keeping in good condition the works from time to time made under the authority of this Act, and the salaries of officers appointed by them under this Act, and the interest of any sum or sums of money for the time being due on mortgage of the lands to be reclaimed, or of any part thereof, and all reasonable and proper costs and expenses of the delegates, and the residue and surplus, if any, of the said rents, issues, and profits shall be paid and divided in the manner prescribed by the ninth section of the said thirdly-recited Act.

Expenses of maintaining works to be raised by rate.

26. All the costs, charges, and expenses of from time to time amending, repairing, and keeping in good condition all the banks, drains, ditches, dams, sluices, tunnels, bridges, staunches, outlets, engines, and other works made under the authority of this Act, and the salaries of officers appointed by the delegates under this Act, and the interest of any sum or sums of money for the time being due on mortgage of the lands to be reclaimed, or any part thereof, and all reasonable and proper costs and expenses of the delegates, or so much of such costs, charges, and expenses, salaries, and interest respectively as the money arising from the letting of the lands to be reclaimed as herein-before provided for shall be insufficient to defray, shall be for ever thereafter borne and paid by the owner or owners for the time being of such of the lands to be reclaimed as shall for the time being have been embanked from the sea, by an equal acre rate or tax on all the said lands; and the delegates shall from time to time assess, charge, and levy such costs and expenses, salaries, and interest on the owner or owners for the time being of the

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same lands by an equal acre rate or tax on all the said lands, and give public notice of every such acre rate or tax; and if any person shall refuse or neglect to pay such acre rate or tax within such time and to such person as the delegates shall appoint, it shall be lawful for the delegates to recover the same, together with interest at the rate of five pounds per centum per annum, to be computed from the day on which the same ought to have been paid, by action at law in their own names, or it shall be lawful for them by warrant directed to any person whomsoever to cause the same, with such interest thereon as aforesaid, to be levied by distress; or it shall be lawful for the delegates, or any person authorised by them, immediately after such neglect or refusal, to enter into and upon the land of such person in respect of which the said acre rate or tax is payable and demise the same, and receive the rents and profits thereof until thereby or otherwise such acre rate or tax, with interest as aforesaid, and also all costs and expenses attending such entry upon and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied; and in case the said acre rate or tax shall be paid by the occupier of such land, then the owner shall allow such occupier to deduct the sums of money which he may have so paid out of the rent from time to time becoming due in respect of the said land, as if the same had been actually paid to such owner as part of such rent.

Owners of newly embanked lands not to be liable to contribute to the repairs of the old works.

27. The lands to be reclaimed under the authority of this Act, except the parcel of land marked number four on the deposited plan, or the owner or owners of the same in respect thereof, shall not be liable to contribute towards the costs and expenses of the inspection and care, or the amendment, repair, or keeping in good condition, of any of the works that now are or shall at any time hereafter be under the control, direction, order, or jurisdiction of the trustees for the time being of the said secondly-recited Act, or other the person or persons for the time being having the inspection and care and direction of the amendment, repair, and keeping in order of the works executed or to be executed under the powers of the same Act, or any Act or Acts heretofore passed for the amendment or alteration thereof, nor shall the said trustees or other such person or persons aforesaid tax or charge the lands to be reclaimed, or any part thereof, except the parcel of land marked number four, towards any such last-mentioned costs or expenses.

Provision for division and allotment of the embanked land.

28. Upon the completion of each embankment to be made by the delegates under the authority of this Act, there shall be a Commissioner appointed to divide and allot such part of the lands to be reclaimed as shall have been embanked from the sea and be ready for division and allotment.

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Commissioner appointed.

29. Edward Millington, of Fleet in the county of Lincoln, surveyor, shall be and he is hereby appointed the Commissioner for dividing and allotting the land from time to time ready for division and allotment as aforesaid, subject to the rules, regulations, and directions herein-after contained.

New Commissioner to be appointed in case of death, &c.

30. If at any time before the power of the said Commissioner, or any other Commissioner to be appointed in his stead, shall cease as herein-after directed, the said Commissioner or such other Commissioner shall die, neglect, refuse, or become incapable to act, then and in such case the delegates shall and may, with the consent of the lords and commoners, appoint a disinterested person to be a Commissioner in the place or stead of such Commissioner so dying, neglecting, refusing, or becoming incapable to act; and every such Commissioner from time to time so appointed (each appointment being certified in writing under the hands of the delegates), after having made the declaration directed to be taken by every person acting as a Commissioner in the execution of this Act, shall have the like power and authority for putting this Act into execution as if he had been named and appointed a Commissioner in and by this Act, and such certificate shall be annexed to and deposited with the award of such Commissioner, and a true copy of such certificate shall be admitted in evidence in like manner as a copy of the said award is hereafter directed to be admitted and allowed.

Commissioner to subscribe declaration.

31. No person shall be capable of acting as a Commissioner in the execution of any of the powers and authorities given by this Act until he shall have made and subscribed a declaration or affirmation following; that is to say,

'I do declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute and perform the several trusts, powers, and authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the thirty-sixth and thirty-seventh years of the reign of Queen Victoria, intituled "The Gedney Inclosure Act, 1873," according to equity and good conscience, and without favour or affection, prejudice or partiality, to any person or persons whomsoever.'

Which declaration or affirmation any justice of the peace for the parts of Holland in the said county of Lincoln is hereby empowered and required to administer; and the said declaration so to be made and subscribed by such Commissioner as aforesaid shall be annexed to and deposited with the award of the said Commissioner, and a copy thereof shall be admitted as legal evidence: Provided always, that no person shall be appointed a Commissioner under the authority of this Act who shall not be a civil engineer or

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an experienced qualified surveyor and valuer, and no person shall be appointed such Commissioner who is in any way interested as a lord or commoner of Gedney.

Notice of Commissioner's first and other sittings.

32. The Commissioner shall give or cause to be given public notice of the time and place of his first and every subsequent sitting for executing the powers by this Act vested in him, at least fourteen days before the day whereon such sittings respectively shall be appointed to be holden (sittings by adjournment, which it shall be lawful for the Commissioner from time to time to make in the meantime, only excepted): Provided always, that all the sittings of the Commissioner shall be held at some convenient place, to be from time to time fixed by him, within the said parish of Gedney, or within three miles of the boundary of the said parish.

Proceedings of Commissioner to be entered in a book.

33. All orders and proceedings of the Commissioner shall be entered in a book to be provided and kept for that purpose, and shall be signed by the Commissioner; and such book, and the entries therein of such orders respectively, shall and may be read and received in evidence in all suits or actions concerning anything done in relation to or in the execution of this Act.

Commissioner may appoint a clerk.

34. The Commissioner shall and he is hereby empowered to appoint some fit and proper person or persons, being an attorney or attorneys at law, as clerk or clerks, to assist him in the execution of this Act, and shall have full power from time to time to remove such clerk or clerks, and to appoint another or others in his or their place.

Commissioner's allowance.

35. There shall be paid to the Commissioner from time to time, as a recompense for his trouble and expense in the execution of this Act, for and in respect of each division and allotment, such sum as may be agreed upon by the Commissioner and the delegates, with the consent of the lords and commoners; the money to be paid to the Commissioner shall be defrayed out of any money hereby authorised to be raised; and in case of disagreement as to such recompense, the amount of such recompense shall be determined by two justices.

Survey to be made.

36. The Commissioner shall from time to time, before proceeding to make the division and allotment herein directed to be made, make a proper survey, admeasurement, and map of the part of the lands to be reclaimed then intended to be divided and allotted, and such survey, admeasurement, and map shall be verified before any such justice as aforesaid on the oath of the person or persons making or having made the same, which oath the said justice is hereby empowered to administer.

Expenses to be paid by sale of lands.

37. For defraying the costs, charges, and expenses of surveying and measuring, planning, valuing, dividing, and allotting the lands to be reclaimed, and of preparing and enrolling the awards herein-after mentioned, and all other the necessary charges and expenses of the Commissioner, including any sum or sums of money owing upon mortgage of the lands to be reclaimed, the Commissioner may sell and dispose of so much of the lands to be reclaimed as shall raise a sum sufficient for defraying all the costs, charges, and expenses, sum and sums aforesaid; and for that purpose the Commissioner shall allot and set out such sufficient part or parts of the lands to be reclaimed as in his judgment shall be most convenient for that purpose, to be sold at some or one of his sittings to be held in pursuance of this Act, of which public notice shall be given by the Commissioner as aforesaid at least twenty days before such sale shall be made, and shall apply the money arising by such sale in discharging the said costs, charges, and expenses, sum and sums of money, and the lands so sold shall be conveyed as freehold of inheritance in fee simple unto the respective purchasers thereof, and a conveyance thereof made and executed by the Commissioner shall be valid and effectual in the law to vest the same in such respective purchasers and their heirs: Provided that if there shall be any overplus remaining of the money arising from the sale of such parts of the said lands herein-before directed to be sold for the purposes aforesaid, the same shall be applied towards the repairs of the public roads herein-after mentioned, or any other purpose of this Act, in such manner as the Commissioner by his award, or by any other instrument under his hand and seal, shall direct and appoint.

Land to be allotted to the vicar of Gedney in lieu of tithe rentcharge.

38. Whereas the lands to be reclaimed are subject to the sums of six pounds and elevenpence and one pound eighteen shillings and sevenpence for tithe rentcharge, in lieu of vicarial tithes, the Commissioner shall allot to the vicar of the parish of Gedney and his successors, or to the owner for the time being of the said tithe rentcharge, such piece or parcel of land as in the opinion of the Commissioner shall be equal in value to the two said sums of six pounds and elevenpence and one pound eighteen shillings and sevenpence; and the land so allotted shall be held in lieu of any other tithe or tithe rentcharge in respect of the lands to be reclaimed, and all such lands shall be held free of and from all tithe and tithe rentcharge for ever.

Commissioner to set out roads.

39. The Commissioner shall and may set out such public and private roads and ways, and also cause to be made such drains, ditches, fences, tunnels, bridges, gates, stiles, and other works as he shall think necessary and convenient in, over, through, and upon the

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lands to be divided and allotted; the charges and expenses of making such roads, ways, drains, ditches, fences, tunnels, bridges, gates, stiles, and other works to be raised and paid by and out of the money herein-before directed to be raised by sale as aforesaid.

Allowing an appeal after the roads are set out.

40. The Commissioner, before he proceeds to set out any allotment in pursuance of this Act, shall stake out all such public roads and highways as he thinks necessary, and it shall be lawful for any person who shall think himself aggrieved by such disposition of the roads, on giving one calendar month's notice to the Commissioner, to appeal against all or any part of such disposition to two justices, within four calendar months after such disposition made, and the Commissioner or his surveyor shall attend such justices with a general map of the lands to be reclaimed, and also, if necessary, a map of the particular lands to be divided and allotted in respect of which the appeal is made, and the justices before whom such appeal shall be made shall, on hearing the evidence and inspecting the map or maps, finally determine in what manner the road shall be made, and whether any new highway or highways is or are necessary to be set out; and if there shall be no regular appeal within the time aforesaid, the disposition of the roads made by the Commissioner as aforesaid shall be final and conclusive.

Roads.

41. All such public roads and highways shall be thirty feet broad at least between the fences and ditches bounding the same, and shall be well and sufficiently fenced out on both sides by such of the owners and proprietors of the lands and grounds adjoining thereto, and within such time, not exceeding twelve calendar months from the date of the award of the Commissioner, as the Commissioner shall by any notice or writing under his hand direct and appoint, and no person shall erect any gate or gates across any of the roads; and after such roads shall have been set out as aforesaid the Commissioner shall by writing under his hand appoint some proper person to be surveyor of the said roads, and such surveyor shall cause the same to be put in good condition and repair, and shall be allowed such salary or reward for his trouble therein as the Commissioner shall by writing under his hand direct and appoint, which salary or reward, and also the expenses of making the said roads and putting the same into good and sufficient repair, shall be paid by and out of the money herein-before directed to be raised by the sale of lands as aforesaid, and no other person or persons other than the owners and proprietors of and persons interested in the lands to be reclaimed shall be charged or chargeable towards the making or repairing the said roads until the same shall be rendered fit for the passage of travellers and carriages, and shall have been certified so to be by the surveyor by writing under his hand, to be delivered

to the justices at some general quarter sessions of the peace to be holden in the hundred of Elloe for the parts of Holland, and until a certificate to that effect shall have been allowed and confirmed by them, which certificate shall be delivered to the said justices at their quarter sessions to be holden next after the said roads shall be made and put into good and sufficient repair as aforesaid, and within the space of one year next after the date of the Commissioner's award, unless sufficient reason be given to the satisfaction of the said justices that a further time is necessary for that purpose, in which case the said justices may and they are hereby empowered to allow such further time for delivering in the said certificate as they shall think proper, not exceeding one year; and in case the said surveyor shall neglect or refuse to deliver such certificate within the time before limited, such surveyor shall forfeit and pay the sum of ten pounds, and the sum so forfeited shall be applied in aid of the money so to be raised by sale of lands as aforesaid; and after such certificate shall have been delivered to the said justices by the surveyor, and shall have been by them allowed and confirmed, the said roads shall be from time to time amended and kept in repair in the same manner as the other public roads and ways in the said parish of Gedney are amended and kept in repair; and all such tunnels, bridges, gates, stiles, and other works in, over, and upon the lands to be inclosed as the Commissioner shall think requisite as aforesaid shall at all times thereafter be maintained and kept in repair in the same manner as the public roads in the parish of Gedney are maintained and kept in repair.

Commissioner to apportion lands.

42. The Commissioner shall, after sale of such sufficient part of the lands to be reclaimed as shall be necessary for the purposes before mentioned, and after setting out such roads and ways as he shall judge requisite over and upon such lands, set out and allot the residue of such lands as follows: one sixteenth part thereof to and amongst the lords of the several manors in Gedney aforesaid in proportion to the number of ancient commonable messuages and tofts within each of the said manors, and the remaining fifteen sixteenths thereof to and amongst the owners and proprietors of ancient commonable messuages and tofts in the parish of Gedney and hamlet of Gedney Hill, or such other persons as would, on any division and allotment of the lands to be reclaimed, be entitled to allotments of land in respect of the said messuages and tofts, or in respect of any sale or disposition heretofore made or hereafter to be made of the rights of common belonging thereto respectively, such ancient commonable messuages and tofts to be ascertained and settled according to the award made by the commissioners under the said first-recited Act, and the Commissioner in making all and

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every the said allotments shall have due regard to the question whether the same should be of freehold or copyhold tenure, and shall declare of which manor (if any) the land to be allotted shall be held, and decide as to the quality and situation of the lands to each person respectively to be allotted, not giving to any of the persons interested any undue preference in respect of any allotments which shall be made, and so as the several allotments to each person be laid as near together and contiguous to each other, and as near to each proprietor's own estate, as conveniently can be done.

Land to be allotted to be in the same parish as the old tofts.

43. Provided always, that such portions of the lands respectively to be allotted in respect of the commonable messuages and tofts in the parish of Gedney shall at all times hereafter be deemed to be and shall be situate in the said parish, and that such portions of the land respectively to be allotted in respect of commonable messuages and tofts in the said hamlet of Gedney Hill shall at all times hereafter be deemed to be and shall be situate in the said hamlet.

Lands to be allotted in respect of copyhold to be deemed copyhold, and the like as to freehold.

44. All such allotments of land as shall be made to any persons for or in respect of any copyhold messuages or tofts holden of any of the said several manors of Gedney Abbott, Gedney Burlion, Gedney Pawlett, and Gedney Welby, or for or in respect of any unenfranchised rights of common in respect of any enfranchised messuages or tofts formerly holden of any of the said manors, or for or in respect of any rights of common or any other right or interest appurtenant or appendant to any such copyhold premises, shall, from and after the date of the Commissioner's award of such allotments, for ever be deemed and taken to be copyhold of the said manors respectively, and shall be holden as such by and under the same tenures, rents, customs, and services as the copyhold messuages, tofts, and premises for or in respect whereof such allotments are or were holden; and as regards any such persons who, prior to the date of the said award, shall have been admitted and shall then stand as tenants on the court rolls of the said manors respectively, whether as tenants of any such messuages or tofts, or as tenants of the common rights in respect of any such messuages or tofts, the allotments so made shall be holden without any further admission of such persons respectively, but as regards any such persons who shall not have been so admitted and shall not then stand as tenants as aforesaid, the customary fines, fees, and other payments shall be due and payable for the admission of such persons to the allotments so made, and, subject to the provisions herein-before in this section contained in favour of the persons who shall have been so admitted and shall stand as tenants as aforesaid, the copyhold

allotments to be made as aforesaid shall at all times be holden under and subject to the like tenures, fines, and other payments, and pass by the like surrenders, as the copyhold messuages or tofts for or in respect whereof such allotments shall be made are or were holden under and subject to. A.D. 1873.

Power of Commissioner to enfranchise copyholder's allotments.

45. On any division and allotment to be made by virtue of this Act, it shall be lawful for the Commissioner,—if the person entitled to an allotment in respect of any messuage or toft held of any of the said manors respectively, and the lord of the manor of whom such messuage or toft is held shall before such allotment thereto consent and agree, such consent to be signified in writing under the hands of such person so entitled as aforesaid and of the lord of the said manor respectively, and in the case of any person who shall be an infant, lunatic, idiot, or femme covert under the hand of his or her guardian, trustee, committee of the estate, or husband respectively, and in case of any person beyond seas under the hand of any attorney or attorneys of such person appointed by instrument in writing, such consent to be delivered to the Commissioner before any allotment shall be made,—to set out and allot such part or parts of the land then being allotted as shall have been agreed upon between the lord of the said manor respectively so consenting as aforesaid and the person so entitled and consenting as aforesaid, to the lord of the said manor respectively in lieu of and exchange for his manorial or other rights over the land then being allotted, and to set out and allot the residue of the said land then being allotted unto the person so entitled and consenting as aforesaid, and after such allotment the residue so set out and allotted to the person entitled and consenting as aforesaid shall be held by him, and the same is hereby declared to be, immediately upon and after such allotment, freehold land, and to be enfranchised and discharged from all copyhold tenure and all and every the incidents and burdens thereof.

Allotment to be in bar of common rights.

46. The several lands from time to time to be allotted and awarded unto and to the use of the several persons who by virtue of this Act shall be entitled to the same shall be and are hereby vested in them respectively in full bar, satisfaction, and compensation of and for all right of common and other right whatsoever in, over, and upon the lands to be reclaimed; and from and immediately after the date of the Commissioner's award, or at such other time as he shall by the said award, or in the meantime by any other writing or instrument under his hand, direct and appoint, all right of common belonging to or claimed by all and every the owners, proprietors, or occupiers of messuages and tofts, and of all persons whomsoever, in,

Rights of common to cease.

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over, and upon all the lands to be reclaimed, and every part thereof, shall cease and be for ever extinguished according to such award, direction, or apportionment.

Commissioner to make an award.

47. Within the space of one year next after each division and allotment shall be completed the Commissioner shall form and draw up or cause to be formed and drawn up an award or instrument in writing, which shall express the quantity in statute measure of acres, roods, and perches contained in the lands comprised in such award, and proper orders and directions for and concerning the laying out, making, maintaining, cleansing, and keeping in repair the drains, ditches, fences, tunnels, bridges, gates, stiles, and other works in, upon, and over the said lands, and all such orders, regulations, and determinations as are in and by this Act mentioned, declared, required, or authorised to be made or established, and such other orders and regulations as shall be necessary or proper, conformably to the tenor of this Act, for the more easy, convenient, and effectual execution thereof, and for preventing all difficulties and disputes in relation to the matters herein contained, which award or instrument shall be fairly engrossed or written upon parchment, and signed and sealed by the Commissioner; and within the like space as aforesaid the Commissioner shall also prepare or cause to be prepared and lithograph a plan having reference to the said award, showing the lands allotted, and the divisions and allotments of the same, and the drains, ditches, fences, tunnels, bridges, gates, stiles, and other works in, upon, and over the said lands, and shall sign and seal a lithographed copy of the said plan, and the said award or instrument shall, within the space of three calendar months after such signing and sealing of the same, together with the said lithographed copy (herein-after referred to as the plan), and together with the Commissioner's declaration herein-before mentioned, be deposited with the clerk of the peace for the parts of Holland in the county of Lincoln, to the end that recourse may be had to the same by any person or persons interested, and the said award, or a true copy thereof or of any part thereof, certified by the clerk of the peace, shall from time to time be admitted in all courts whatsoever as legal evidence, which copy or copies of the said award the clerk of the peace is hereby directed to make and deliver to any person or persons desiring the same, he, she, or they paying for such copy after the rate of sixpence for every one hundred words; and any person or persons shall have liberty to inspect and peruse the said award, paying for every such inspection or perusal one shilling and no more; and all orders, directions, regulations, and determinations so to be made as aforesaid shall be binding and conclusive unto and upon all parties interested

therein; and a copy of the said award or instrument shall be deposited in a chest within the church of Gedney aforesaid, amongst the records of the said parish, for the inspection and perusal of the several owners or proprietors of the lands to be reclaimed; and the delegates shall cause to be made and shall keep lithographed copies of the plan, and shall, when thereto required, deliver a copy or copies (receiving therefor one shilling for each copy) of the same to any person claiming to be interested therein, and shall certify to be correct copies of the plan any copy or copies so delivered, and such copies so certified shall from time to time be admitted in all courts whatsoever as legal evidence.

End of Commissioner's powers.

48. Whenever the Commissioner shall have given notice that the duties and things hereby authorised to be done by him are completed, the several powers and authorities granted to and vested in the Commissioner by this Act shall cease and determine, anything herein-before contained to the contrary notwithstanding.

Delegates and Commissioner to account.

49. The delegates and the Commissioner shall keep an account in writing of all moneys by them respectively received, laid out, and assessed under the provisions of the Act; and as regards the accounts of the delegates, the delegates shall annually make up a statement of such account to the 31st day of December, and within three months after every such date they shall cause the same or an abstract thereof to be published by advertisement in some newspaper circulating in the county of Lincoln; and as regards the account of the Commissioner, he shall, upon the deposit of his award as herein-before provided, cause the said account or an abstract thereof to be published by advertisement in any such newspaper as aforesaid; and the delegates and the Commissioner respectively shall at all seasonable times permit any of the lords and commoners, or their agents, to inspect such account respectively, with the vouchers for any money therein stated to have been paid by them or him or by their or his order.

Appeal.

50. If any person or persons shall think himself, herself, or themselves aggrieved by anything done by the Commissioner or delegates, or any or either of them, in pursuance of this Act in relation to any of the following matters; viz., (one) the right of any person or persons to an allotment under the provisions of this Act in respect of any messuage or toft in respect of which any allotment may have been made under the provisions of the herein-before recited Acts or any of them, or in respect of the ownership at the date of the Commissioner's award of the common right belonging to any such messuage or toft; (two) the question as to whether the common right in respect of any messuage or toft had been enfranchised

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prior to the date of the award, then and in every such case he, she, or they may, within one month after such grievance, apply in writing to the delegates or to the Commissioner, as the case may be, to state and sign a case setting forth the facts and the grounds of the determination of the delegates or Commissioner, as the case may be, for the opinion thereon of one of the superior courts of law, to be named by the party applying, and it shall be the duty of the delegates or the Commissioner, as the case may be, upon such application to state and sign such case, and such party shall, within seven days after receiving such case, transmit the same to the court named in his application, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party or parties to the proceeding in which the determination of the delegates or of the Commissioner, as the case may be, was given, and also to the delegates or to the Commissioner, as the case may be, and thereafter all further proceedings shall be taken and had and conducted, and the question or questions between the parties shall be heard and determined, by the superior court to whom such case shall have been transmitted, in like manner and form in all respects as if the case had been a case stated by a justice or justices of the peace, pursuant to an Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to improve the administration of "the law so far as respects summary proceedings before justices "of the peace;" and if any person or persons shall think himself, herself, or themselves aggrieved by anything done by the Commissioner or delegates, or any or either of them, in pursuance of this Act, other than in the respects herein-before first and secondly mentioned, and other than and except where herein otherwise provided, and other than and except such determinations of the Commissioner or the delegates as are by this Act declared to be final, binding, or conclusive, then and in every such case he, she, or they may appeal to two justices within six calendar months next after the time when the cause of complaint shall have arisen, giving to the Commissioner or to the delegates and to the party or parties concerned notice in writing of such appeal, and of the matter thereof, within fourteen days after the cause of complaint shall have arisen, and ten days at least before the sessions at which such appeal will be heard; and the justices (not interested in the premises) in such sessions 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 in their discretion shall seem reasonable, and in default of payment by their order or warrant to levy the costs and damages which shall be so awarded by distress

and sale of the goods and chattels of the party or parties made liable to pay the same, rendering the overplus (if any) to the owner or owners of such goods and chattels, after deducting the reasonable charges of such warrant, distress, and sale, and every order and determination of the said justices upon every such appeal shall be final and conclusive to all parties concerned, and shall not be removed or removable by certiorari or any other writ or process whatsoever into any of Her Majesty's courts of record at Westminster or elsewhere; but in case such appeal should appear to the said justices to be frivolous, vexatious, or without foundation, then and in such case the said justices shall award such costs to be paid by the appellant or appellants as to them in their discretion shall seem reasonable, and in default of payment such costs shall be levied in manner last aforesaid.

Reserving manorial rights.

51. Except as herein provided, the rights of the present or any future lord or lords, lady or ladies, of any manor or manors of, in, or to the seigniories, royalties, rights, and services incident and belonging to the respective manors within the said parish of Gedney shall not be prejudiced, but such lord or lords, lady or ladies respectively for the time being, and all persons claiming or to claim under or in trust for him or them or any of them respectively, as lord or lords, lady or ladies of the said respective manors, shall at all times hereafter, except as aforesaid, hold and enjoy all rents, services, rights, royalties, courts, perquisites of courts, and all profits of courts, waifs, strays, and all other royalties and privileges to the said respective manors or to the lords or ladies thereof belonging or in anywise appertaining as in full, ample, and beneficial a manner to all intents and purposes whatsoever as they, he, or she, or either of them, might have held and enjoyed the same in case this Act had not been passed.

General saving of rights:

52. Saving always to the trustees for the time being of the said Act of the thirty-third year of the reign of King George the Third, or other the person or persons for the time being having the inspection and care and direction of the amendment, repair, and keeping in order of the several works executed or to be executed under the powers of that Act, or any Act or Acts heretofore passed for the amendment or alteration thereof, and also to all and every other person or persons, courts of sewers, including herein the Commissioners of Sewers, the Commissioners of the Nene Outfall, and the Norfolk Estuary Company, bodies politic and corporate, his, her, and their successors, heirs, executors, and administrators, (other than and except the lords and commoners, and all other persons whose rights are expressed or intended to be barred in and by this Act, and their respective heirs, executors, administrators, and

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assigns,) all such jurisdiction, benefit, right, and advantage as they, every or any of them, respectively have exercised, had, or enjoyed over, in, or out of the lands to be inclosed before the passing of this Act, or could have exercised, had, and enjoyed in case this Act had not been passed: Provided always, that such jurisdiction, benefit, right, and advantage so reserved shall not be exercised so as to impede or otherwise interfere with the execution of this Act.

So as not to impede the execution of this Act.

Saving rights of the Crown.

53. Nothing contained in this Act shall authorise the Commissioner to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of the Crown in the foreshore.

54. Nothing contained in this Act shall authorise the delegates to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

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