

owners in severalty in to or upon the said marshes and he shall also give such public notice as is provided for in the General Inclosure Act 1845 of the intention to hear such claims And he shall accordingly hear publicly and investigate whatsoever evidence may be adduced before him with respect to the matters aforesaid 5 or any of them and the owners of common rights in the parish of Moulton may either in person or by any persons appointed by them for that purpose and all other parties interested may in person or by their agents be present and be heard concerning such claims or any of them and the decision of the Commissioner upon the matters 10 aforesaid or any of them shall (subject to the provisions herein contained and the appeal hereinafter provided for) be final and binding on the said claimants and every of them and their heirs successors and assigns and also on the said owners of common rights Provided That if the persons claiming such common rights 15 fail to appear in support thereof at the times and places so fixed by the Commissioner and do not assign any reason satisfactory to the Commissioner for their absence the person or persons so failing to appear shall be deemed absolutely and for all purposes to have relinquished their claims.

Providing for
appeal.

8. The following provisions shall have effect with respect to appeals from any determination of the Commissioner concerning disputed claims and shall be in addition to and not in substitution for the provisions hereinafter contained or incorporated with respect to appeals :—

- (a) The Commissioner shall if required so to do by any claimant declare in writing his determination concerning any disputed claim and he shall deliver a copy signed by him of such determination to any claimant demanding the same and if such claimant shall be dissatisfied with the 30 said determination of the Commissioner as being founded upon any error in a point of law he may within three weeks after the same determination shall have been delivered to him apply to the Commissioner to state and sign a case by way of appeal setting forth the grounds of 35 his determination for the opinion thereon of the Court of Queen's Bench (hereinafter called "the Court") and the

said claimant (hereinafter called the Appellant) shall within one week after receiving such case transmit the same to the Court first giving notice in writing of such appeal with a copy of the case so stated and signed to any other party or parties interested in the subject matter of such determination hereinafter called the Respondents;

- (b) The Appellant shall not be entitled to any such special case until he shall have entered into a recognisance before a Justice or Justices of the Peace for the said parts of Holland with or without surety or sureties and in such sum as to the said Justice or Justices (after hearing the Commissioner and the Respondents or any of them who may desire to be heard) shall seem meet conditioned to prosecute such appeal without delay and to submit to the judgment of the Court, and to pay such costs as may be awarded by the same and the Appellant shall at the same time and before he shall be entitled to have the case delivered to him pay to the Commissioner all such costs and expenses as may have been incurred by him with relation to the preparation of such special case;

Security and notice
to be given by
Appellant.

- (c) The Court shall hear and determine the question or questions of law arising upon any such case and shall thereupon reverse affirm or amend the determination in respect of which the case has been stated and may make such other order in relation to the matter and may make such orders as to costs as to the Court may seem fit and all such orders shall be binding and conclusive on all parties Provided always that the Commissioner stating a case in pursuance of this Act shall not be personally liable to any costs by reason of such appeal against his determination;

Court of Queen's
Bench to deter-
mine questions on
case.

- (d) The Court may if they think fit send back any such case for amendment and thereupon the same shall be amended accordingly and judgment shall be delivered after the said case has been amended;

Case may be sent
back for amend-
ment.

- (e) The authority and jurisdictions hereby conferred upon the Court may be exercised by a Judge of that Court sitting in Chambers and as well in vacation as in Term time;

Judge at Chambers
may determine
case.

As to procedure
upon such cases,

(f) No writ or proceeding other than as hereinbefore mentioned shall be required for obtaining the determination of the Court on any such case and every such case shall be subject to the same rules and orders of practice and procedure as cases submitted to a superior Court by 5 virtue of the Act of the 20th and 21st years of Her present Majesty chapter 43 intituled "An Act to improve the Administration of the Law so far as respects summary Proceedings before Justices of the Peace" so far as the same rules and orders are applicable and the 13th section of the 10 same Act shall be applicable to recognizances entered into in manner aforesaid as if they had been recognizances entered into in pursuance of that Act.

Boundaries of
parish.

9. The Commissioner shall ascertain and set out the boundaries of the said several parishes of Moulton Holbeach and 15 Fosdyke in the said Salt Marshes and the following sections of The General Inclosure Act 1845 namely sections 39 to 45 both inclusive (containing provisions as to setting out and ascertaining boundaries of parishes) as the same sections may have been amended and enlarged by the Acts since passed for amending and enlarging 20 the same shall so far as the case will admit thereof and so far as the same are not inconsistent with this Act be applicable to such several parishes and the boundaries thereof and the ascertaining of such boundaries respectively and such Commissioner shall have all the powers of the Enclosure Commissioners or Assistant Enclosure Commis- 25 sioners acting under the said General Enclosure Act contained and set forth in the last mentioned clauses or any of them and after the said boundaries shall be so ascertained set out and fixed the same shall and are hereby declared to be the boundaries of such parishes respectively as against all persons 30 whomsoever and any person interested who shall be dissatisfied with the determination of the Commissioner may have the question at issue determined by a jury in manner in the said general Act mentioned or may remove the same into the Court of Queen's Bench by certiorari as in the said Act is mentioned and thereupon 35 such proceedings shall be taken and orders made as in the said Act are mentioned and the said Court is empowered to make in cases removed to the same by virtue of the said Act.

10. In case the Commissioner on the determination of any question hereinbefore referred to him shall see cause to award any costs it shall be lawful for him upon application to assess and award such costs as he shall think reasonable to be paid to the person 5 or persons parish or parishes in whose favour any such determination shall have been made and by the person or persons parish or parishes against whom or which such determination shall have been made and it shall be lawful for the Commissioner to assess and award that such costs respectively shall be charged upon the lands 10 in such parish against which such determination shall be made and the same shall be raisable by sale of such part of the said lands in that parish as the Commissioner may determine before the same shall be awarded and allotted to the claimants thereof and the provisions in this Act contained as to sales of land for the general 15 expenses of this Inclosure shall be applicable to sales for the purpose of paying such costs Provided always That each party or parties parish or parishes shall one calendar month before the Commissioner shall proceed to inquire into and ascertain such boundaries give him notice in writing specifying the particulars of 20 the boundary or boundaries which such person or persons parish or parishes shall be desirous of having established and the Commissioner shall within seven days after the receipt thereof give to the other person or persons parish or parishes interested in the said matters copies of such notice or notices.

25 11. The Commissioner shall also after such public notices as he may think right publicly investigate and determine the claims in to and over the said Marshes of the owners of Common rights in the parish of Moulton and for the purpose of such investigation the Commissioner shall hear not only the parties making such 30 claims or persons on their behalf but also persons interested in the matter and objecting to the said claims.

12. The following sections of the said General Inclosure Act namely sections 9, 10, 22, 45, 46, 47, 48, 55, 56, 57, 58, 59, and 60 providing for the ascertainment of claims 35 and for other matters incidental thereto and section 69 providing for the suspension of common rights as the same sections may have been amended and enlarged as aforesaid shall so far as the nature of the case will admit thereof and so far as the same

are not inconsistent with this Act be applicable to all persons claiming any right or interest in the lands to be enclosed under this Act and to all claims thereunder except that the Commissioner acting under this Act shall be substituted for the valuer acting under the said General Act and shall have such powers of sum-
 5 moning witnesses compelling the production of documents and administering oaths and declarations as are in such General Act given to the Inclosure Commissioners and except that it shall not be competent for any person or persons so claiming as aforesaid to appeal to the said Inclosure Commissioners or Assistant Com-
 10 missioner but the appeal under the 56th Section shall be direct from the Commissioner to the Court in the said section mentioned and except that the Commissioner acting under this Act shall not be required to send a Schedule of the claims and objections and his determinations thereon to the said Inclosure Com-
 15 missioners.

Commissioner's
report.

13. Sections 102, 103, and 129 of the said General Inclosure Act relating to the Report to be drawn up by the valuer as the same sections may have been amended as aforesaid shall so far as the nature of the case will admit thereof and so far as the same are not inconsistent
 20 with this Act be applicable to the Inclosure hereby directed the Commissioner being substituted for the valuer acting under the said General Act except that the Commissioner's Report shall not be sent to the said Inclosure Commissioners but that he shall cause a copy of the same to be deposited in the manner and at the place
 25 in the said General Act mentioned and the objections (if any) to such Report shall be heard and determined by such Commissioner assisted by such assessor as aforesaid.

Expenses of parties
and witnesses.

14. Sections 131 and 132 of the said General Inclosure Act relating to the expenses of parties and witnesses shall also so far as the
 30 case will admit thereof and so far as the same are not inconsistent with this Act be applicable to the persons interested in the said inclosure and the expenses in the said General Act mentioned except that the Commissioner acting under this Act shall be substituted for the Commissioners or Assistant Commissioner
 35 acting under the said General Act.

15. When the Commissioner shall have sufficiently embanked the said marshes and shall have determined upon the said claims and after such proceedings as hereinbefore mentioned or referred to shall have been had and all objections to the Commissioner's
 5 report (if any) shall have been finally disposed of and such amendments (if any) shall have been made in the allotments directions and matters therein contained as aforesaid he shall as soon as conveniently may be divide and allot the same Marshes so that the same may in his judgment be most conveniently occupied by the persons
 10 entitled thereto and he may fence off the several allotments or adopt such other means as he may deem expedient for defining the limits of each allotment and also for dividing the portions of Salt Marshes belonging to the several owners in severalty from those belonging to the owners of common rights and from each other.

Commissioner to
allot marshes.

15 16. The Commissioner shall by an Award under his hand and seal set forth the several allotments made by him to each person entitled thereto and shall annex to such Award a Plan to be drawn upon parchment or vellum on which the public and private roads
 20 the respective quantities contained therein and such other matters and things as the Commissioner shall think fit shall be fairly and distinctly delineated and expressed and a copy of the said award and plan verified by the hand and seal of the Commissioner shall be deposited in the parish church of every parish in which
 25 any parts of the said Salt Marshes are declared by the said award to be situate and another copy of the same award and plan verified as aforesaid shall be delivered to the clerk of the peace of the parts of Holland in Lincolnshire and another copy verified as aforesaid shall be delivered by the Commissioner to the trustees here-
 30 inafter appointed And the copy of the award and plan delivered to the said clerk of the peace shall be kept among the records of the said parts of Holland and for the reception thereof the fee of two pounds two shillings shall be paid and the said Award and Plan shall from the delivery thereof to the said clerk of the peace be
 35 deemed to be enrolled and the provisions contained in the Act first Victoria chapter eighty-three shall apply to the award and plan so deposited as though they were documents the custody of which is provided for in that Act.

Providing for
award.

Providing for
expenses of Com-
missioner.

17. And for the purpose of providing for the expenses of the Commissioner attending the execution of this Act Be it Enacted as follows:—

(1) The Commissioner shall allot and reserve such portions of the several Salt Marshes as he may think sufficient to defray by the sale thereof the expenses attending the applying for and obtaining of this Act and the execution by the Commissioner of the powers of this Act both with respect to the works to be executed by him and to his Award;

(2) He may sell and convey the said portions so allotted and reserved by him for the best price which he can obtain for the same and his receipt for the purchase-money shall be a sufficient discharge to the purchaser and the purchaser shall not be required to see to the application of the purchase money or be liable for the misapplication thereof;

(3) He may borrow money on mortgage of the said Salt Marshes:

Provided that any sum so borrowed shall be repaid out of the purchase-money received from the sale of the portions of Salt Marshes hereinbefore authorised;

(4) He shall in addition to the portion of the Marshes so allotted and reserved by him allot and reserve a further portion if he thinks fit which shall be vested in the Trustees hereinafter mentioned for the purpose of defraying the expenses of maintaining repairing and renewing the banks and drains and other general works to be maintained by the Trustees.

Providing for
remuneration of
Commissioner.

18. The Commissioner shall receive such remuneration for his services as shall be determined by a majority of the votes of persons to whom the said Marshes shall have been allotted such persons being present in person or by proxy at a meeting convened with notice of the matter or if the meeting declines to fix such remuneration then as shall be determined by the Inclosure Commissioners for England and Wales upon the application of the Commissioner.

19. The Commissioner shall make up annually a statement of all sums received and expended by him inclusive of the remuneration payable to him (if such remuneration is payable annually) and shall submit such account together with the vouchers relating to the same to some person to be nominated as auditor by the Enclosure Commissioners for England and Wales upon the application of the Commissioner and no charge in such accounts shall be valid unless the same shall be duly allowed by such auditor:

Providing for
annual accounts of
Commissioner.

20. All money raised by the Commissioner by sale of land and by borrowing shall be applied to the following purposes and in the following order:

Providing for
application of
money borrowed.

(1) In discharging the costs and expenses of applying for and obtaining this Act and incidental thereto;

(2) In defraying the expenses attending the preparation of his award including his remuneration and any legal expenses which he may incur with respect to the said assessor or arising out of or with relation to the said award;

(3) In executing the works hereby authorised;

(4) As to the money raised by the sale of land in repayment of any money borrowed by the Commissioner on the security of the Salt Marshes and in payment of any interest due at the time of such repayment;

(5) If any surplus moneys remain in his hands after having deposited his award he shall pay the same to the trustees hereinafter appointed.

21. If when the Commissioner shall have made and deposited his award any sums remain unpaid and owing by him with relation to any of the matters aforesaid those sums shall be discharged by the Trustees hereinafter appointed.

Providing for
balance of liabilities
by Commissioner.

22. The Lord Boston his heirs and assigns and any person who shall be held by the Commissioner to be entitled to hold his land

Lord Boston and
others to pay
proportion of
expenses.

in severalty shall pay a rateable proportion of the expenses of the enclosure by this Act authorised in proportion to the land which may be so allotted to him as aforesaid such proportion to be fixed by the Commissioner and when received to be accounted for by him as part of the general funds of the enclosure. 5

Providing for
appointment of
Trustees.

23. When the Commissioner shall have made and deposited his award he shall give notice thereof by such means as he shall think sufficient and he shall summon the persons to whom the said Marshes have been allotted to meet at some place to be fixed by the notice for the election of three trustees and the following provisions shall apply to such election: 10

- (1) Every owner of an allotment in the said Marshes shall be entitled to one vote and he shall be entitled to an additional vote in respect of every acre so owned by him beyond the first acre; 15
- (2) An elector may appoint another elector to be his proxy such appointment being in writing under the hand of the elector and attested by one witness;
- (3) The election shall be decided by a majority of the votes present in person or by proxy and in case of equality of 20 votes the chairman shall have a casting vote in addition to his original vote;
- (4) The said meeting shall choose its own chairman;
- (5) Every person qualified as an elector shall be qualified to become a Trustee. 25

As to duration of
Trustees.

24. The Trustees so chosen shall remain in office for three years or until their successors are appointed and on the first Thursday in the month of October in every third year there shall be a meeting for the election of Trustees and the Trustees so from time to time elected shall also remain in office three years or until 30 their successors be appointed and the Trustees going out of office shall be always re-eligible Provided That no elector shall be entitled to vote unless he has paid any acre tax due from him under the powers of this Act.

25. If any of the Trustees die or resign, or cease to be a Trustee from any other cause than that of going out of office by rotation the remaining Trustees may if they think fit elect another Trustee in his place and every Trustee so appointed shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office. Mode of supplying occasional vacancies.

26. There shall be annual meetings of the Trustees at such place as the Trustees shall from time to time appoint, and every such meeting shall choose its own chairman. As to annual meetings.

27. The following provisions shall apply to the transaction of business by the Trustees: As to the business of Trustees.

- (1) The quorum of Trustees shall be two;
- (2) Their principal office shall be at Spalding or at such other place as they may from time to time appoint;
- (3) They shall not be required to hold meetings monthly but they may hold meetings at Spalding or at such other place as they may from time to time appoint;
- (4) Notice of every meeting shall be given to each Trustee by circular.

28. The accounts of the Trustees for the year preceding ending upon the thirty-first day of December shall be submitted by them to an annual meeting of the owners of lands in the said Marshes together with the vouchers and the said meeting shall examine the same and if found correct shall approve the same and such approval shall be a sufficient discharge to the Trustees. Providing for audit of accounts.

29. The Trustees may appoint such officers clerks collectors and servants as they may think necessary for the transaction of their business and they may rent or engage any office that they may deem requisite for the same purpose. Trustees may appoint officers.

30. There shall be vested in the Trustees so appointed all embankments drains and other works executed by the Commis- Property vested in the Trustees.