ANNO QUINQUAGESIMO QUINTO

GEORGII III. REGIS.

Cap. lxxxvi.

An Act for embanking and incloſing Lands in the Pariſh of *Benington*, in the County of *Lincoln*.

[22d *June* 1815.]

WHEREAS there are in the Pariſh of *Benington*, in the County of *Lincoln*, certain open and unembanked Salt Marſhes: And whereas the ſaid Marſhes are frequently overflowed with the Tides, whereby the Paſturage thereof is greatly injured, and the Cattle feeding thereon are liable to be drowned; and it would be of great Advantage to all the Parties intereſted therein, if the ſame were embanked and incloſed, and Proviſion made for the future Support of the Banks of ſuch Marſhes: And whereas there are in the Pariſh of *Benington* certain Open Fields and Ings, Commonable Lands and Waſte Grounds: And whereas *Philip*, the Wife of the Reverend *Charles Gery* Clerk, is Lady of the Manor and Soke of *Skirbeck*, late Parcel of the Honor of *Richmond* and compriſing amongſt other Pariſhes the ſaid Pariſh of *Benington*; and claims to be excluſively entitled to the Soil of the Marſhes, Commonable Lands and Waſte Grounds within the ſaid Pariſh, and all other Manerial Rights therein: And whereas the Right Honourable *Robert* Earl of *Buckinghamſhire* is ſeiſed of the perpetual Advowſon, Preſentation and Right of Patronage, of, in and to the Rectory of the Pariſh and Pariſh Church of *Benington* aforeſaid; and the Reverend *Moſes Hodges Bartholmew* Clerk, is the Rector thereof, and in Right of his ſaid Rectory is ſeiſed of all Tythes whatſoever ariſing and renewing within the Pariſh of *Benington* aforeſaid, and is alſo entitled to a Meſſuage and certain Glebe Lands within the ſaid Pariſh: And whereas the Reverend *Maurice Johnſon* Doctor in

Divinity, *Henry Hallam* Eſquire, *Robert Waldegrave* Eſquire, *William Cook* Eſquire, *John Ealand*, *Joſeph Tointon*, *John Adlard*, *William Overton*, *Edward Black*, and others, are Owners and Proprietors of or intereſted in the ſaid Marſhes, Open Fields, Ings, Commonable Lands and Waſte Grounds, and are alſo Owners and Proprietors of ancient Incloſed Lands in the Pariſh of *Benington* aforeſaid: And whereas an Act was paſſed in the
41 G. 3. c. 142. Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for dividing and allotting certain Fens called* The Eaſt and Weſt Fens, *in the County of* Lincoln; whereby certain Tracts of Fen Lands, Moors or Marſh Grounds, in the ſaid County of *Lincoln*, called *The Eaſt and Weſt Fens*, whereon the Owners and Proprietors of Houſes, Toftſteads, Lands and Grounds in the ſaid Pariſh of *Benington*, and divers other Pariſhes, Townſhips and Places therein mentioned, had and exerciſed certain Rights of Common and Paſture, are directed to be divided and allotted by the Commiſſioners acting under the ſaid Act, unto and for the Uſe and Benefit of the Owners and Proprietors of Houſes, Toftſteads, Lands and Grounds, in the ſaid Pariſh of *Benington*, and in the ſeveral other Pariſhes, Townſhips and Places having Right of Common on the ſaid Fens, in Parochial or General Allotments, in ſuch Manner and under ſuch Powers and Authorities, and ſubject to ſuch Rules, Orders and Directions, as in the ſaid Act are mentioned and expreſſed: And whereas another Act was paſſed in
41 G. 3. c. 109. the Forty-firſt Year of the Reign of His preſent Majeſty, 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 the Lands and Grounds of the ſeveral Proprietors in the ſaid Open Fields and Ings, in the ſaid Pariſh of *Benington*, lie intermixed and diſperſed, and are in their preſent State incapable of any conſiderable Improvement; and it would be of Advantage to all Perſons concerned, if the ſame Marſhes, Commonable Lands and Waſte Grounds, and alſo the ſaid Parochial or General Allotment or Allotments, ſet out in the ſaid *Eaſt Fen*, for the Owners and Proprietors of Houſes, Toftſteads, Lands and Grounds, in the ſaid Pariſh of *Benington*, by virtue of the ſaid Act firſt herein recited, were divided and incloſed, and ſpecific Shares thereof allotted to the ſeveral Perſons reſpectively intereſted therein; and if the ſame Marſhes, Open Fields, Ings, Lands, Grounds and Allotment or Allotments, and alſo the incloſed Lands in the ſaid Pariſh of *Benington*, were diſcharged from Tithes, and all Moduſes, Compoſitions, and Payments in lieu thereof: But the ſeveral Purpoſes aforeſaid cannot be effected without the Aid and Authority of Parliament; May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Par-

Appointment of Commiſſioners.

liament aſſembled, and by the Authority of the ſame, That *John Burcham* of *Coningſby* in the County of *Lincoln*, Gentleman, *Henry De Bruyn* of *Southampton Street* in the Pariſh of *Saint George Bloomſbury*, in the County of *Middleſex*, Gentleman, and *William Thacker* of *Langrett Ferry*, in the Pariſh of *Coningſby* aforeſaid, Gentleman, and their Succeſſors, to be elected in Manner herein-after mentioned, ſhall be and they are hereby appointed Commiſſioners for embanking, ſetting out, dividing, allotting and incloſing all the ſaid Marſhes, Open Fields, Ings, Commonable Lands and Waſte Grounds, and alſo ſuch Parcel or Parcels of the ſaid Fen called *The Eaſt Fen*, as have been ſet out or allotted to and for the Owners and Proprietors of Houſes, Toftſteads, Lands and Grounds within the ſaid

Pariſh of *Benington*, under or by virtue of the ſaid Act firſt herein recited, and for carrying this Act into Execution; ſubject to the Rules, Regulations, and Directions herein-after contained, and ſubject to ſuch of the Powers, Regulations, Reſtrictions and Proviſions contained in the ſaid Act ſecondly herein recited, as are not controuled by or repugnant to any of the Clauſes, Proviſions or Regulations contained in this Act: And the Notices required to be given, of ſetting out public and private Roads, and of reading and executing the Award of the ſaid Commiſſioners, and all other Notices by the ſaid Act ſecondly herein recited or this Act, required to be given in ſome public Newſpapers, ſhall be given and publiſhed in the *Lincoln*, *Rutland*, and *Stamford Mercury*; or if that Newſpaper ſhall not then be publiſhed, in ſome other Newſpaper publiſhed or generally circulated in the ſaid County of *Lincoln*; and all Powers and Authorities, Directions, Acts, Matters and Things, hereby given to or directed to be done by the ſaid Commiſſioners, may be done and executed by or before any Two of them, and ſhall be as valid and effectual as if executed by or before all of them. Notice to be given.

II. And be it further enacted, That if any of the Commiſſioners appointed by this Act, or who ſhall be elected in Manner herein-after mentioned, ſhall, before the Execution of all the Powers and Authorities hereby in them reſpectively veſted, die, neglect, decline, or refuſe to act, or become incapable of acting, another Commiſſioner in the Room of every ſuch Commiſſioner ſo dying, neglecting, declining, or refuſing to act, or becoming incapable of acting, ſhall be elected in Manner following; (that is to ſay), if the ſaid *John Burcham* ſhall die, neglect, decline, or refuſe to act, or become incapable of acting, it ſhall be lawful for the ſaid *Moſes Hodges Bartholmew*, or the Rector of *Benington* aforeſaid for the Time being, by Writing under his Hand, to appoint a Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Room of the ſaid *John Burcham*; and ſo from Time to Time as often as any Commiſſioner ſo to be appointed as laſt aforeſaid ſhall die, neglect, decline, or refuſe to act, or become incapable of acting; and in caſe either of them the ſaid *Henry De Bruyn* or *William Thacker* ſhall die, neglect, decline, or refuſe to act, or become incapable of acting, it ſhall be lawful for the Majority in Value (ſuch Value to be aſcertained by the Land Tax Aſſeſſment) of the Proprietors and Perſons intereſted in the Marſhes, Lands, and Grounds directed by this Act to be embanked, divided, and incloſed, or their Agents or Attornies (except the ſaid *Moſes Hodges Bartholmew* or the Rector of *Benington* aforeſaid for the Time being), who ſhall be preſent at a public Meeting to be held for that Purpoſe in the Pariſh of *Benington* aforeſaid, in purſuance of a Notice to be given by Writing, to be affixed on one of the outer Doors of the Pariſh Church of *Benington* aforeſaid, at leaſt Fourteen Days before ſuch Meeting ſhall be held, by Writing under their Hands, to appoint a Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Room of the ſaid *Henry De Bruyn* and *William Thacker*, or either of them, ſo dying, neglecting, declining, or refuſing to act, or becoming incapable of acting; and ſo from Time to Time, as often as any Commiſſioner ſo to be appointed by the ſaid Proprietors ſhall die, neglect, decline, or refuſe to act, or become incapable of acting; and in caſe the ſaid reſpective Parties, or any of them, ſhall make Default in appointing any ſuch future Commiſſioner within Two Calendar Months after the Death of any Commiſſioner, or after his neglecting, declining, or refuſing to act, or becoming incapable of acting, ſhall be known, Appointment of future Commiſſioners.

known, then the ſurviving or remaining Commiſſioners or Commiſſioner ſhall, and they and he are and is hereby required, from Time to Time, by Writing under their or his Hands or Hand, within One Calendar Month after the Expiration of the ſaid Two Calendar Months allowed to the reſpective Parties for appointing ſuch future Commiſſioner or Commiſſioners as aforeſaid, to appoint a Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Room of every Commiſſioner ſo dying, neglecting, declining, or refuſing to act, or becoming incapable of acting as aforeſaid; and every Commiſſioner to be appointed as aforeſaid ſhall have the like Power and Authority as the Commiſſioner in whoſe Place he ſhall be appointed was inveſted with by virtue of this Act.

Appointment of Clerk.

III. And be it further enacted, That the ſaid Commiſſioners ſhall have Power, and they are hereby authorized to appoint ſome fit and proper Perſon or Perſons to be the Clerk or Clerks for aſſiſting them in carrying this Act into Execution, and ſuch Clerk or Clerks from Time to Time to remove, and to nominate and appoint ſome other fit and proper Perſon or Perſons to ſucceed him or them in ſuch Office.

Commiſſioners to give Notice of Meetings.

IV. And be it further enacted, That the ſaid Commiſſioners ſhall cauſe Notice to be given in Writing, to be affixed upon the principal outer Door of the ſaid Church, of the Time and Place of their Firſt and every other Meeting for the Execution of this Act, at leaſt Seven Days before any ſuch Meeting ſhall be held, (Meetings by Adjournment only excepted); and the ſaid Commiſſioners ſhall and may adjourn any ſuch Meeting from Time to Time, as they ſhall ſee Occaſion, for the further Execution of this Act; and in caſe Two of the ſaid Commiſſioners ſhall not meet at the Time and Place appointed for any Meeting, or to which any Meeting ſhall be adjourned, it ſhall be lawful for the Commiſſioner preſent at ſuch Time and Place to adjourn the ſaid Meeting, to be held on any future Day not exceeding Twenty-one Days from the Day of Adjournment, at the ſame or any other Place, and the Commiſſioner making ſuch Adjournment is hereby required to give Notice thereof to the abſent Commiſſioners; and in caſe no one of the ſaid Commiſſioners ſhall appear at ſuch Meeting, then the Clerk or Clerks to the ſaid Commiſſioners ſhall and may adjourn the ſaid Meeting to, and appoint the ſaid Commiſſioners to meet at the Place where the laſt Meeting was appointed to be holden, on that Day Three Weeks next after the Day on which ſuch laſt Meeting was appointed to be holden, and ſhall, and he or they is and are hereby required forthwith to give Notice of ſuch Adjournment to the ſaid Commiſſioners.

Clerk to adjourn.

Place of Meeting.

V. Provided always, and be it further enacted, That all Meetings of the ſaid Commiſſioners for carrying this Act into Execution ſhall be held within the Pariſh of *Benington* aforeſaid, or within the Diſtance of Eight Miles from the Boundaries thereof.

Survey of Land not to be made unleſs directed by Commiſſioners.

VI. Provided always, and be it further enacted, That nothing in the ſaid Act ſecondly herein recited contained, ſhall extend to require the Commiſſioners for executing this Act, or any Surveyor or Surveyors to be by them appointed, to make or cauſe to be made any Survey, Admeaſurement, or Plan of the ſaid Marſhes, Parochial or General Allotments, and other Lands and Grounds hereby directed to be embanked, divided,

divided, allotted, and incloſed, or of any of the old incloſed Lands or Grounds within the ſaid Pariſh of *Benington*, unleſs the ſaid Commiſſioners ſhall deem ſuch Survey, Admeaſurement, or Plan, neceſſary or expedient for the Purpoſes of the ſaid Act ſecondly herein recited, or of this Act.

Commiſſioners to determine Differences.

VII. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Proprietors of or Perſons intereſted or claiming to be intereſted in any of the Marſhes, Lands, or Grounds directed to be embanked, divided, allotted, and incloſed by this Act, it ſhall be lawful for the ſaid Commiſſioners to hear, adjudge, and determine ſuch Diſpute or Difference: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioners to determine the Title to any Meſſuages, Lands, Tenements, or Hereditaments whatſoever.

Power to award Coſts.

VIII. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, or Objection or Objections to be delivered to them in purſuance of this Act or the ſaid Act ſecondly herein recited, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle, aſſeſs, and award ſuch Coſts and Charges as they ſhall think reaſonable, to be paid to the Party in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, or Objection or Objections, ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges, ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch Caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Perſon whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Power to try diſputed Claims at Law.

IX. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic or Corporate, intereſted or claiming to be intereſted in the ſaid intended Embankment, Diviſion, and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners, touching or concerning any Claim or Claims of Rights of Common, or other Rights or Intereſts, in, over, or upon the ſaid Marſhes, Open Fields, Ings, Commonable Lands and Waſte Grounds, or any Part thereof, and ſhall by Writing under his or their Hand or Hands, or the Hand or Hands of his or their Agent or Attorney, or under their Common Seal reſpectively, ſignify the ſame to the ſaid Commiſſioners, within Three Calendar Months next after any ſuch Determination ſhall have been made, and ſignified by Writing under the Hands of the ſaid Commiſſioners, to the Perſon or Perſons, Body or Bodies Politic or Corporate, againſt whom the ſame ſhall have been ſo made, or to his, her, or their Agent or Attorney, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic or Corporate, ſo diſſatisfied with ſuch Determination, to have the Subject of ſuch Claim or Objection, in reſpect of which ſuch Determination ſhall be made, tried at Law by an Action to be brought by him, her, or

them, againſt any Perſon or Perſons, Body or Bodies Politic or Corporate, in whoſe favour any Determination ſhall have been ſo made, or againſt the ſaid Commiſſioners, upon a feigned Iſſue, to be ſettled by the proper Officer of the Court where ſuch Action ſhall be brought, in caſe the Parties differ about the ſame; ſuch Action to be brought within Three Calendar Months next after any ſuch Determination ſhall have been made, and Notice thereof given as before directed; and the Defendant and Defendants in ſuch Action, ſhall and is and are hereby required to name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept One or more Iſſue or Iſſues, by which the Matter of ſuch Determination of the ſaid Commiſſioners may be tried, and the Plaintiff or Plaintiffs ſhall thereupon proceed in ſuch Action, ſo as to have the ſame tried and determined at the Firſt or Second Aſſizes to be holden for the ſaid County of *Lincoln* next after the Commencement of ſuch Action; and the Verdict of the Jury on ſuch Trial ſhall be binding, final, and concluſive upon all the Parties intereſted therein, unleſs the Court wherein ſuch Action ſhall be brought ſhall ſet aſide ſuch Verdict, and order a new Trial to be had thereupon, which it ſhall be lawful for the Court to do, as is uſual in other Caſes, and alſo upon ſufficient Cauſe ſhewn to put off the Trial of ſuch Iſſue; and after ſuch Verdict ſhall have been given, and final Judgment obtained thereon, the ſaid Commiſſioners ſhall, and they are hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that it ſhall be lawful for the ſaid Commiſſioners to retain or pay all ſuch Coſts, Charges, and Expences as they ſhall incur or be put unto, or which ſhall be recovered againſt them in or by reaſon or in conſequence of any ſuch Action or Action, out of any Monies which ſhall come to their Hands for the Purpoſes of this Act: Provided alſo, that all ſuch Determinations of the ſaid Commiſſioners as ſhall not be objected to by ſuch Notice to be given to the ſaid Commiſſioners as aforeſaid, or being ſo objected to, and the diſſatisfied Party not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be abſolutely final and concluſive.

Determination of Commiſſioners not objected to to be final.

If Parties die Proceedings not to abate.

X. And be it further enacted, That if the Parties in any Action to be brought in purſuance of this Act or the ſaid Act ſecondly herein recited, ſhall die pending the ſame, ſuch Action ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

Proviſion in caſe of Death of Parties before Actions brought.

XI. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein-before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politic or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame, within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk or Clerks of the ſaid Commiſſioners with Proceſs for commencing ſuch Action or Actions, in he ſame Manner as the Party or Parties might have been ſerved therewith living; and it ſhall thereupon be incumbent on the Heir or Heirs, or other Perſon or Perſons who ſhall claim the Benefit of ſuch Determination

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as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dying, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Persons in Possession not to be molested without due Course of Law.

XII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, except in Cases of Encroachment made within the Period of Twenty Years, as herein-after mentioned; but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due course of Law.

Encroachments within Twenty Years to be deemed Part of the Waste.

XIII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Commonable Lands and Waste Grounds shall be deemed Part thereof, and shall be divided and allotted accordingly; and if any Dispute shall arise as to the Space of Time during which the said Encroachments shall have been made or subsisted, the same shall be determined by the said Commissioners, who shall proceed to settle such Dispute, in the same Manner as by the said Act secondly herein recited they are directed to proceed in the Settlement of the Claims of Persons to any of the Lands and Grounds hereby directed to be divided and inclosed.

To prevent cutting of Turf.

XIV. And be it further enacted, That if any Person or Persons, after the passing of this Act, and before the Execution of the Award of the said Commissioners to be made in pursuance of this Act, shall cut, dig, take, pare, grave or carry away any Land, Soil, Earth, Turf, Sand or Sods, in, upon or from the said Parochial or General Allotment or Allotments, Marshes, Commonable Lands and Waste Grounds, or any Part thereof (except for flagging, sodding or repairing the Sea Banks) without the Licence of the said Commissioners first had and obtained in Writing for that Purpose (which Licence the said Commissioners are hereby empowered to grant) every such Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, to be levied and recovered in the same Manner as other Penalties are by this Act directed to be levied and recovered; one Moiety of which Penalty or Penalties shall go and be paid to the Informer or Informers, and the other Moiety thereof shall be paid to the Overseers of the Poor of the said Parish of *Benington*, for the Benefit of such Poor.

Commissioners may alter Roads through Inclosures.

XV. And be it further enacted, That in case it shall appear to the said Commissioners that there are any public Highways, Bridle Roads, or Footways, in, through, over or on the Sides of any of the said inclosed Lands or other Lands within the said Parish of *Benington*, which may in the Judgment of the said Commissioners be diverted and turned, without Inconvenience to the Public, into any other public Highways, Bridle Roads or Footways, or be diverted or turned so as to make the same more convenient to the Public, or be stopped up or destroyed as superfluous and unnecessary

ſary, it ſhall be lawful for the ſaid Commiſſioners, with the Concurrence and Order of Two Juſtices of the Peace acting in and for the Parts of *Holland* in the ſaid County of *Lincoln*, in manner and ſubject to appeal as in this or the ſaid Act ſecondly herein recited is mentioned, in and by their ſaid Award to order and direct ſuch public Highways, Bridle Roads or Footways, to be diverted, altered, turned, ſtopped up or deſtroyed, in ſuch Manner as the ſaid Juſtices ſhall think proper and reaſonable; and in caſe ſuch Highways, Bridle Roads or Footways, ſo to be diverted, altered, turned, ſtopped up or deſtroyed, do not paſs through any of ſuch incloſed Lands or other Lands, but on the Sides of the ſame, to ſell and diſpoſe of the Land and Soil of ſuch Roads or Ways, and apply the Money ariſing thereby towards repairing the public Highways within the ſaid Pariſh.

Banks and Drains to be made.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required to cauſe the ſaid Salt Marſhes to be embanked and incloſed from the Sea in an effectual Manner, and alſo to make or cauſe to be made ſuch Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches and Tunnels, and other Requiſites, as well in, through, over and acroſs the Marſhes, Lands, and Grounds hereby directed to be embanked, divided, allotted, and incloſed, as alſo in, over, and through any ancient Incloſures, or other Lands or Grounds within the ſaid Pariſh of *Benington*, as ſhall be neceſſary and proper (making reaſonable Satisfaction to all and every Perſons and Perſon who may ſuſtain any Damage thereby) of ſuch Dimenſions and in ſuch Directions reſpectively as the ſaid Commiſſioners ſhall think proper, for the effectual Drainage and Improvement of all the Lands within the ſaid Pariſh, and for that Purpoſe to ſcour out, deepen, widen, amend, and repair all ſuch ancient Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches, and Tunnels in the ſaid Pariſh; and the ſaid Commiſſioners ſhall and may and they are hereby directed and required, in and by any Writing or Writings under their Hands, or in and by their Award, to order and determine by whom and at whoſe Expence, at what Time or Times, and in what Manner, the ſaid Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches, Tunnels, and other Requiſites ſhall be made, scoured out, deepened, widened, amended, and repaired, and by whom the ſame ſhall afterwards be reſpectively cleanſed, ſcoured out, repaired, and maintained, until the Execution of their Award, to be made in purſuance of this Act, or the ſaid Act ſecondly herein recited, and until a Surveyor ſhall be appointed as herein-after mentioned for making ſuch Repairs; and it ſhall and may be lawful to and for the ſaid Commiſſioners, and they are hereby required, in and by their Award, to charge the ancient Incloſures in the ſaid Pariſh, with ſuch annual Sum, according to the improved Value, as they may think juſt and equitable, for the future Repairs of the Drains, Banks, and Tunnels to be made through or upon ſuch ancient Incloſures; all which Sums of Money ſhall be recoverable by the ſame Ways and Means as any Rate or Aſſeſſment for paying any Part of the Expences of obtaining and executing this Act may be recovered, and ſhall be applied for ſuch Purpoſes as may be directed in the ſaid Award by ſuch Perſon, as a Majority in Value (ſuch Value to be aſcertained by the Land Tax Aſſeſſment) of the Proprietors of the ancient Incloſures to be drained by virtue of this Act ſhall appoint to recover and apply the ſame: Provided always, that no ſuch Watercourſe ſhall be diverted or turned without the Conſent in Writing of the Owner or Owners of any incloſed Land, from which

which any such Watercourse shall be diverted or turned, or into which the same shall be intended to be carried or conveyed: Provided also, that nothing herein contained shall extend or be construed to extend to authorize or empower the said Commissioners, or any Person or Persons to whom any Part or Parts of the said Lands and Grounds hereby directed to be divided and enclosed, shall be allotted by virtue of this Act, to interfere, alter, or meddle with the Banks, Drains, Sluices, Bridges, Tunnels, Engines, or other Works of Drainage made or to be made under or by virtue of an Act passed in the Second Year of the Reign of His present Majesty, intituled *An Act for draining and preserving certain Low Lands called* The Fens, *lying on both Sides the River* Witham, *in the County of* Lincoln; *and for restoring and maintaining the Navigation of the said River from the High Bridge in the City of* Lincoln, *through the Borough of* Boston *to the Sea*; or under or by virtue of an Act passed in the Forty-first Year of His present Majesty, intituled *An Act for the better and more effectually draining certain Tracts of Land, called* Wildmore Fen, *and* The West and East Fens, *in the County of* Lincoln; *and also the Low Lands and Grounds in the several Parishes, Townships, and Places, having Right of Common on the said Fens, and other Low Lands and Grounds lying contiguous or adjoining thereto*; or under or by virtue of an Act passed in the Forty-third Year of His present Majesty, intituled *An Act for amending an Act passed in the Forty-first Year of the Reign of His present Majesty, for more effectually draining certain Tracts of Land called* Wildmore Fen, *and* The West and East Fens, *in the County of* Lincoln, *and other Low Lands and Grounds lying contiguous or adjoining thereto*; or to interfere, alter, or meddle with any of the Ditches, Drains, Watercourses, Banks, Sluices, Bridges, Staunches, or Tunnels in the said Parish of *Benington*, now under the Controul, Direction, Order, or Jurisdiction of any Commissioners of Sewers, or any Law or Statute relating to Sewers.

2 G. 3. c. 32.

41 G. 3. c. 135.

43 G. 3. c. 118.

Allotments to the Surveyors of the Highways for Gravel, Sand, and other Materials.

XVII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out, allot, and award unto and for the Surveyors of the Highways of the said Parish of *Benington* for the Time being, one or more Plot or Plots of the Lands and Grounds hereby directed to be divided and enclosed, as they shall think proper, not exceeding in the Whole Two Acres Statute Measure, as and for Gravel and Sand Pits, with convenient Roads to and from the same; which said Plot or Plots of Land so to be set out as aforesaid, shall be used for the Repairs of the Public or Private Roads within the same Parish, and shall be vested in such Surveyors for the Time being for ever, in Trust, to let the Grass and Herbage or Produce thereof for the best Rent that can be reasonably gotten for the same, and to apply the Rents and Profits thereof in repairing the said public Highways in the said Parish of *Benington*; and to account touching the Application of such Rents and Profits, at such Times and in such Manner as they are and shall be accountable by Law, for any other Monies which shall come to their Hands as Surveyors of the Highways as aforesaid.

Allotment of Open Fields for Glebe and Tythes.

XVIII. And be it further enacted, That the said Commissioners shall (after setting out such public and private Roads, Ways and Drains, as are directed to be set out by this Act or the said Act secondly herein recited), set out and allot unto and for the said *Moses Hodges Bartholmew*, and to the Rector for the Time being of the said Rectory of *Benington* (as near to the Rectory House in *Benington* aforesaid as conveniently may be) such Part

Part or Parts of the ſaid Open Fields hereby directed to be divided and incloſed, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to and a full Compenſation for his Glebe Lands in the ſaid Open Fields, and ſhall alſo ſet out for the Tithes of the ſaid Open Fields, ſo much thereof as will be equal in Value to One-fifth Part of the Arable Lands, and to Two-ſeventeenth Parts of the Graſs Lands therein, and ſhall then ſet out, divide and allot the Reſidue of the ſaid Open Fields, and the ſaid Ings hereby directed to be divided and incloſed, unto and amongſt the ſeveral Perſons, Bodies Politic or Corporate, intereſted therein at the Time of making ſuch Allotments, in proportion and according (Quantity, Quality and Situation conſidered) to their ſeveral and reſpective Shares, Rights, Intereſts and Property therein, for and in lieu of and as a Compenſation for all ſuch their ſaid ſeveral Shares, Rights, Intereſts, and Property, to be ſettled and aſcertained by ſuch Ways and Means as to the ſaid Commiſſioners ſhall ſeem moſt proper, expedient and neceſſary in that Behalf.

Allotment for Manerial Rights in the Soil of the Marſhes, Commonable Lands, and Waſte Grounds.

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, to ſet out and allot unto the Lord or Lady of the Manor and Soke of *Skirbeck*, late Parcel of the Honor of *Richmond* aforeſaid, or unto the Lord or Lords of any other Manor or Manors, who may be entitled to the Soil of the ſaid Marſhes, Commonable Lands and Waſte Grounds hereby directed to be embanked, divided, allotted and incloſed, or any Part thereof, ſuch Part or Parts of the ſaid Marſhes, Commonable Lands and Waſte Grounds (except the ſaid Parochial or General Allotment or Allotments in the Eaſt Fen, for the Manerial Intereſt wherein Compenſation is directed to be made under the Authority of the ſaid Act firſt herein recited), as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One Thirty-fifth Part of all ſuch Marſhes, Commonable Lands and Waſte Grounds (except as aforeſaid) within their reſpective Manors, in lieu, bar and Satisfaction, of and for his, her, and their Manerial Rights and Intereſts in or to the Soil of ſuch Marſhes, Commonable Lands and Waſte Grounds.

Allotment for Tythe of Marſhes and Common.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, after Sale of ſuch Part or Parts of the ſaid Marſhes and of the ſaid Parochial Allotments, as ſhall be found neceſſary or expedient for providing a Fund for embanking and draining the ſaid Marſhes, and after they ſhall have ſet out ſuch Parts of the ſaid Marſhes, Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds, as ſhall be neceſſary for the public and private Roads and Drains directed to be ſet out by this Act or by the ſaid Act ſecondly herein recited, in or over the ſame, to ſet out and allot unto the ſaid *Moſes Hodges Bartholmew*, and to the Rector for the Time being of the ſaid Rectory of *Benington*, ſuch Plots or Parcels of the ſaid Marſhes, Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to One-ninth Part of the Reſidue of ſuch Marſhes, Parochial or General Allotment or Allotments, and Commonable Lands and Waſte Grounds hereby directed to be embanked, divided, allotted and incloſed.

Allotment of the Reſidue.

XXI. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required, after the Sale of ſuch Parts or Parcels

Parcels of the ſaid Marſhes, Parochial or General Allotment or Allotments Commonable Lands and Waſte Grounds, as ſhall be found neceſſary and expedient to be ſold for providing a Fund for defraying the Coſts, Charges, and Expences of obtaining this Act, and carrying the ſame into Execution, and after the ſeveral Allotments herein-before and by the ſaid Act ſecondly herein recited, ſhall have been made, to ſet out, allot, and divide the Reſidue and Remainder of the ſaid Marſhes, Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds hereby directed to be embanked, divided and incloſed, in Manner following (that is to ſay) One Moiety or equal Half-Part thereof (Quantity, Quality and Situation conſidered) unto and amongſt the Owners and Proprietors of Houſes in the ſaid Pariſh of *Benington*, having Right of Common on the ſaid Marſhes, Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds, and of Toftſteads whereon ſuch Houſes formerly ſtood (each Toftſtead being conſidered as entitled to One Moiety only of the Quantity of Land which ſhall be allotted as the Proportion of each Houſe); and the remaining Moiety or Half Part of ſuch Parochial or General Allotment or Allotments, unto and amongſt the Owners and Proprietors of Lands and Grounds in the ſaid Pariſh of *Benington*, who are or ſhall be allowed and determined to have Right of Common in over or upon the ſaid Eaſt and Weſt Fens, under or by virtue of the ſaid Act firſt herein recited, in reſpect of Common Right Houſes in any of the Pariſhes, Townſhips or Places therein mentioned; and the remaining Moiety or Half Part of the ſaid Marſhes, Commonable Lands and Waſte Grounds within the ſaid Pariſh of *Benington*, unto and amongſt the Owners and Proprietors of Lands and Grounds within the ſaid Pariſh, who are entitled to ſuch Common Right Houſes as aforeſaid in the ſaid Pariſh, in Proportion and according to the Value of their reſpective Lands and Grounds.

Allotment for Freehold Quit Rents.

XXII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby authorized and required to ſet out, allot, and appoint, unto the Lady or Ladies, Lord or Lords of any Manor or Manors within the ſaid Pariſh of *Benington*, entitled to any Chief Rents, Quit Rents, or Fee Farm Rents, or other dry or unimprovable Rents, payable out of or from or in reſpect of any Freehold Houſes, Toftſteads, Lands or Grounds, ſituate, lying and being within the ſaid Pariſh of *Benington*, ſuch Parcel or Parcels of the ſaid Marſhes, Lands and Grounds hereby directed to be embanked, divided and incloſed, which may be allotted to the reſpective Owners of ſuch Freehold Houſes, Toftſteads, Lands or Grounds, ſo ſubject to Chief Rents, Quit Rents or Fee Farm Rents as aforeſaid, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to or an Equivalent for all ſuch Chief Rents, Quit Rents, or Fee Farm Rents, or other dry or unimprovable Rents; and the ſeveral Perſons to whom any ſuch Parcel or Parcels of Land ſhall be allotted, ſhall be ſeiſed and poſſeſſed thereof reſpectively, to and for the ſame Uſes, Truſts, Eſtates and Purpoſes, and ſubject to the ſame Charges and Incumbrances as ſuch Chief Rents, Quit Rents, or Fee Farm Rents, or other dry or unimprovable Rents, would have been held for or under or been ſubject to, in caſe this Act had not paſſed.

Allotment for Tythes of old Incloſures.

XXIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out and allot, unto the ſaid *Moſes Hodges Bartholmew*, and the Rector of the ſaid Rectory for the

the Time being, from and out of the ſaid Parochial or General Allotment or Allotments and Marſhes hereby directed to be divided, allotted and incloſed, in ſuch Situation as ſhall be moſt convenient to the ſaid *Moſes Hodges Bartholmew*, and the Rector of the ſaid Rectory for the Time being, conſiſtently with the fair Intereſt of the Proprietors therein, ſuch Plots or Parcels of the ſame Parochial or General Allotment or Allotments and Marſhes, as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One Fifth Part of all the Arable Lands within the ſaid Pariſh of *Benington*, which were in Tillage, or in a courſe of Tillage, between the Sixth Day of *April* One thouſand eight hundred and thirteen, and the Sixth Day of *April* One thouſand eight hundred and fourteen, and to Two Seventeenth Parts of all other Lands and Grounds in the ſaid Pariſh of *Benington* (except the ſaid Open Fields, Marſhes, Commonable Lands, and Waſte Grounds, for the Tythes whereof Compenſation is herein-before directed to be made as aforeſaid); which ſaid ſeveral Allotments herein-before directed to be ſet out for the ſaid *Moſes Hodges Bartholmew*, and the Rector for the Time being of the ſaid Rectory, ſhall and are hereby declared to be in lieu and in full Satisfaction and Compenſation for all Tithes, both Great and Small, and all Moduſes, Compoſitions, and other Payments in lieu of Tithes, ariſing, renewing, and payable out of and from all and every the Marſhes, Open Fields, Ings, Commonable Lands, and Waſte Grounds, and other open, incloſed and embanked Lands and Grounds whatſoever in the ſaid Pariſh of *Benington*, and alſo out of or from the ſaid Parochial or General Allotment or Allotments, and every Part thereof reſpectively (Surplice Fees, *Eaſter* Offerings, and Mortuaries excepted) ſubject nevertheleſs to the Deduction in reſpect of Moduſes here-in-after mentioned.

Allotment to the Rector in the Marſhes, not to exceed Fifty Acres thereof.

XXIV. Provided always, and be it further enacted, That the Allotment to be made to the ſaid *Moſes Hodges Bartholmew*, and the Rector of the ſaid Rectory for the Time being, in the ſaid Marſhes, for or in reſpect of the Tithes of the ſaid Marſhes, or of any other Tithes within the ſaid Pariſh of *Benington*, ſhall not exceed Fifty Acres Statute Meaſure of ſuch Marſhes, but the Reſidue of the Value of ſuch Tithes ſhall be ſet out and allotted from and out of the ſaid Parochial or General Allotment or Allotments hereby directed to be divided and incloſed.

Allotments to be delineated upon a Plan, and ſhewn to the Proprietors.

XXV. And be it further enacted, That when and ſo ſoon as the ſaid Commiſſioners ſhall have aſcertained the reſpective Rights and Intereſts of the ſaid Proprietors, in the Lands and Grounds to be divided and allotted by virtue of this Act, and alſo the reſpective Shares and Proportions by them propoſed to be allotted to ſuch Proprietors reſpectively in lieu thereof, they the ſaid Commiſſioners ſhall give Notice of a Meeting at ſome convenient Time and Place when and where the Proprietors may be informed of ſuch intended Allotments, and a Map or Plan thereof ſhall be produced for their Inſpection; and as ſome Proprietors may upon Inſpection of ſuch Map or Plan be diſſatisfied with the intended Allotments, the ſaid Commiſſioners ſhall at ſuch Time and Place as laſt aforeſaid, or ſome other Time or Place to be appointed by them for that Purpoſe, receive Statements in Writing of the Complaints and Objections againſt ſuch Allotments, and ſhall forthwith, or as ſoon after as conveniently may be, determine the ſame, and their Determination therein, as to the ſaid Allotments, ſhall be final and concluſive on all Parties.

XXVI. And

Directing the Right to certain Tythes to be determined by an Iſſue at Law.

XXVI. And whereas the Proprietors or Occupiers of ſuch Parts of the ſaid Open Fields, Ings, and other Lands and Grounds within the ſaid Pariſh of *Benington*, as are not in Tillage, claim to be diſcharged from the Payment of Tythes in Kind, in reſpect of ſuch Open Fields, Ings, Lands, and Grounds, by Means of certain Moduſes and other Compoſitions payable to the ſaid Rector in lieu of ſuch Tythes; which Claim the ſaid *Moſes Hodges Bartholmew*, as Rector as aforeſaid, denies, and claims to be entitled to Tythes in Kind, growing and ariſing upon ſuch Parts of the ſaid Open Fields, Ings, Lands, and Grounds; be it therefore enacted, That for the Purpoſe of finally ſettling and determining the Validity of all Moduſes, Compoſitions or other Payments in lieu of Tythes in Kind, it ſhall and may be lawful for the Parties who for the Time being ſhall be immediately intereſted therein, or any of them, to have the ſame tried at Law, at the Firſt or Second Aſſizes to be holden for the County of *Lincoln*, next after the paſſing of this Act, by One or more feigned Iſſue or Iſſues, the Action or Actions for that Purpoſe to be commenced in one of His Majeſty's Courts of Record at *Weſtminſter*, by the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, againſt the ſaid *Robert Waldegrave*, or ſome other or others of the Parties ſo for the Time being immediately intereſted in ſuch Moduſes, Compoſitions, or other Payments in lieu of Tythes as aforeſaid, as ſoon as conveniently may be after the paſſing of this Act; and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies, who ſhall appear thereto, or file Common Bail, and accept of One or more Iſſue or Iſſues, whereby ſuch Diſputes or Queſtions may be properly tried and determined, the Form of which Iſſue or Iſſues to be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be brought, if the ſaid Parties differ about the ſame; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions, provided the ſame ſhall be to the Satisfaction of the Court in which the ſaid Action or Actions ſhall be brought, ſhall be final and concluſive to all Perſons and Bodies Politic and Corporate whomſoever, intereſted in the ſaid Embankment, Diviſion, and Incloſure; and the Coſts of the Plaintiffs in ſuch Action or Actions, ſhall be paid by the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, and of the Defendant or Defendants in ſuch Action or Actions, by the other Parties intereſted; and the Allotments to be made to the ſaid *Moſes Hodges Bartholmew*, and the Rector for the Time being of the ſaid Rectory, for the ſaid Tythes, Moduſes, Compoſitions, or Payments in purſuance of this Act, ſhall be regulated by and made conformable to the Verdict or Verdicts to be given in ſuch Action or Actions.

Deductions in a certain Event to be made from Tithe Allotments.

XXVII. Provided always, and be it further enacted, That in caſe by ſuch Determination to be made as aforeſaid or otherwiſe, the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, ſhall be entitled only to ſuch Moduſes, Compoſitions or other Payments in lieu of Tithes as aforeſaid, then the ſaid Commiſſioners ſhall and they are hereby authorized and required to deduct from and out of the ſaid Tithe Allotments, ſuch Part or Parts of the ſaid Tithe Allotments, as ſhall in the Judgment of the ſaid Commiſſioners be equal to the Difference in Value between ſuch Moduſes, Compoſitions, and other Payments, and ſuch Tithes as aforeſaid; which ſaid Part or Parts ſo to be deducted from and out of the ſaid Tithe Allotments as aforeſaid ſhall be ſet out, allotted, and

and divided by the ſaid Commiſſioners, unto and amongſt the ſeveral Perſons entitled to the Benefit of or intereſted in ſuch Moduſes, Compoſitions, or other Payments in lieu of Tithes as aforeſaid, according and in Proportion to their ſeveral and reſpective Rights and Intereſts therein.

Reſtriction as to Deductions from Tithe Allotments.

XXVIII. Provided always, and be it further enacted, That any Deduction from the ſaid Tithe Allotments, in reſpect of any Moduſes, Compoſitions, or other Payments in lieu of Tithes, for Lands and Grounds within the ſaid Pariſh of *Benington*, in the Occupation of Outtowners or Perſons not reſiding within the ſame Pariſh, ſhall be made only in reſpect of ſuch Lands as were ſo occupied between *Lady-day* One thouſand eight hundred and thirteen, and *Lady-day* One thouſand eight hundred and fourteen.

Reſtriction as to Deductions from Allotments not exceeding Five Acres.

XXIX. Provided always, and be it further enacted, That nothing in this Act contained ſhall authorize or empower the ſaid Commiſſioners to ſet out or deduct any greater Part of the ſaid Marſhes, Parochial or General Allotments, Commonable Lands and Waſte Grounds, to which any Perſons may be entitled under the ſaid Act firſt herein recited, in reſpect of any Houſe, Toftſtead, or Lands, not exceeding in the whole Five Acres Statute Meaſure, than will be equal in Value to the Tithes of ſuch Houſe, Toftſtead, and Lands, and for which Tithes Compenſation is by this Act directed to be made: Provided alſo, that nothing herein contained ſhall reſtrain the ſaid Commiſſioners from making Deductions from ſuch Parts of the Marſhes, Parochial or General Allotments, Commonable Lands and Waſte Grounds as laſt aforeſaid, in caſe the Perſon or Perſons entitled thereto ſhall alſo be entitled to other Parts of the ſaid Marſhes, Parochial or General Allotments, Commonable Lands and Waſte Grounds, in reſpect of any other Eſtate or Property.

Tithe Allotments to be fenced.

XXX. And be it further enacted, That the ſaid Plots or Parcels of Land herein-before directed to be ſet out for the ſaid *Moſes Hodges Bartholmew*, and all other Allotments to the Rector for the Time being of the ſaid Rectory, ſhall, from and out of the Monies to be raiſed by the Sale of Lands under the Authority of this Act, be incloſed and fenced, except on ſuch Sides and Parts thereof as ſhall be directed by the ſaid Commiſſioners to be fenced by the Proprietors of particular Allotments lying next thereto, and except ſuch Parts as the ſaid Commiſſioners ſhall order and direct to be fenced with Ditches Eight Feet wide and Four Feet deep, in ſuch Caſes as the ſaid Commiſſioners ſhall think ſuch Ditches to be a ſufficient Fence or Fences, with a ſufficient Ditch, and planted with good thriving Quickſets, ſufficiently guarded with ſubſtantial Poſts and Rails; and a good and ſubſtantial Gate ſhall alſo be fixed in each Allotment as aforeſaid; and the ſaid Commiſſioners ſhall direct and appoint what Part of the ſaid Hedges, Ditches, and Fences, ſhall afterwards belong to the ſaid *Moſes Hodges Bartholmew*, and the Rector for the Time being of the ſaid Rectory; and the ſaid Hedges, Ditches, Fences, and Gates, when properly made, ſhall for ever thereafter be kept, maintained, ſcoured out, and ſupported, by and at the Expence of the Perſon or Perſons to whom the ſame ſhall be by the ſaid Commiſſioners ordered and appointed, in and by their Award to belong.

XXXI. And

Power for the Rector to erect Buildings, and borrow Money for defraying the Expences thereof, and of Subdivision Fences.

XXXI. And whereas it may be requiſite for the better Occupation and Cultivation of the Allotment or Allotments ſo to be made to the ſaid *Moſes Hodges Bartholmew* and his Succeſſors, Rectors as aforeſaid; and in order to render ſuch Allotments of greater Value to the ſaid Rector and his Succeſſors, it will be neceſſary that Buildings ſhould be erected thereon, and interior or ſubdiviſion Fences made, planted, and raiſed in and upon the ſaid Allotment or Allotments: And whereas the erecting of ſuch Buildings, and the making, planting, and raiſing of ſuch interior or ſubdiviſion Fences, will be a conſiderable Expence, and the ſame will probably be more beneficial to the Succeſſors of the ſaid Rector than to himſelf; be it therefore further enacted, That it ſhall and may be lawful to and for the ſaid *Moſes Hodges Bartholmew* and his Succeſſors, Rectors as aforeſaid, by and with the Conſent in Writing of the Patron of the ſaid Rectory, and of the Biſhop of the Dioceſe for the Time being, to erect or cauſe to be erected ſuch Buildings and Conveniences upon the Allotment or Allotments (which Buildings and Conveniences the ſaid Rector and his Succeſſors are hereby required to cauſe to be inſured, equal to the Value thereof, annually, in ſome of the Offices in *London* eſtabliſhed for Inſurance againſt Fire) ſo as aforeſaid to be ſet out unto the ſaid *Moſes Hodges Bartholmew* and his Succeſſors, Rectors as aforeſaid, and alſo to make, plant, and raiſe ſuch interior or ſubdiviſion Fences in and upon the ſaid Allotment or Allotments, as the ſaid Commiſſioners ſhall judge neceſſary and proper for the Occupation of the Lands ſo to be allotted to the ſaid Rector and his Succeſſors, and by any Deed or Deeds, Writing or Writings under his or their Hand and Seal, or Hands and Seals, and atteſted by Two or more credible Witneſſes, by and with the Conſent in Writing of the Patron of the ſaid Rectory, and of the Biſhop of the Dioceſe for the Time being, to charge ſuch Allotment or Allotments ſo as aforeſaid to be ſet out for the ſaid *Moſes Hodges Bartholmew* and his Succeſſors, Rectors as aforeſaid, and the Buildings and Conveniences ſo to be erected thereon, with ſuch Sum or Sums of Money not exceeding the Sum of Eight hundred Pounds, as the ſaid Commiſſioners ſhall think neceſſary for the Purpoſes of and in order to be applied for paying and defraying the Charges and Expences of erecting the ſaid Buildings and Conveniences, and of making, planting, and raiſing ſuch interior or ſubdiviſion Fences, and in applying for and obtaining the Conſent of the ſaid Patron and Biſhop, and in the Exerciſe of the Powers given to and veſted in the ſaid *Moſes Hodges Bartholmew* by virtue of this Act, which Sum or Sums of Money ſhall be paid to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall nominate and appoint, in order to be applied and diſpoſed of accordingly; and for ſecuring the Repayment of ſuch Sum or Sums of Money, with Intereſt for the ſame, to grant, mortgage, leaſe, or demiſe the Allotments ſo as aforeſaid to be ſet out, unto and for the ſaid *Moſes Hodges Bartholmew* and his Succeſſors, Rectors as aforeſaid, and the Buildings and Conveniences ſo to be erected thereon, unto ſuch Perſon or Perſons who ſhall advance and lend the ſame, his, her, and their Executors, Adminiſtrators, and Aſſigns, for any Term or Number of Years, ſo as every ſuch Grant, Mortgage, Leaſe, or Demiſe be made with a Proviſo to ceaſe and be void, or with an expreſs Truſt or Condition to be ſurrendered when the Sum or Sums of Money thereby to be ſecured, with the Intereſt thereof, ſhall be reſpectively fully paid and ſatisfied; and ſuch Mortgagee or Mortgagees advancing and lending the Money ſo to be borrowed, ſhall not be obliged to ſee to the Application,

plication, or be anyways anſwerable for the Miſapplication of ſuch Monies, or any Part thereof; and the ſaid Rector and his Succeſſors for the Time being, ſhall be and is hereby required and made liable, at the End of every Year after the Commencement of the ſaid Term of Years, to pay to the Perſon or Perſons to whom ſuch Grant, Mortgage, Leaſe or Demiſe ſhall be made, his, her, or their Executors, Adminiſtrators, or Aſſigns, One-twentieth Part of the Principal Money ſo to be borrowed, until the Whole thereof ſhall by ſuch annual Payments be paid off and diſcharged; and alſo to pay and keep down the Intereſt of the ſaid Monies ſo to be borrowed, ſo that the future Rectors of the ſaid Pariſh of *Benington* becoming poſſeſſed of ſuch reſpective Allotment or Allotments ſhall not be ſubject or liable (and they are hereby reſpectively diſcharged from being ſubject or liable to pay any further or larger Share of ſuch Monies than his or their Proportion thereof, according to ſuch laſt-mentioned Condition, or any Intereſt for the ſame, ſave only for One Year from the Day of the Death, Reſignation, or Ceſſion of the Predeceſſor, his Executors or Adminiſtrators; and it ſhall and may be lawful to and for the Perſon or Perſons who ſhall advance and lend ſuch Monies, his, her or their Executors, Adminiſtrators and Aſſigns, for the more eaſily recovering the ſaid One-twentieth Part of the ſaid Principal, and the whole of the Intereſt which is enacted annually to be paid, to have, uſe, exerciſe and take ſuch and the ſame Powers and Remedies by Entry and Diſtreſs upon the Premiſes ſo to be charged, mortgaged, and demiſed, and Sale of ſuch Diſtreſs, as by the Laws now in force are provided for and given to Landlords, or as they can uſe and take for the Recovery of Rack Rents in arrear.

Tithes to be payable till Allotments made.

XXXII. And be it further enacted, That the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, ſhall be entitled unto and ſhall receive and enjoy ſuch and the ſame Tithes, Moduſes, Compoſitions, or other Payments in lieu thereof, until the Allotments herein-before directed to be made to him, in lieu of Tithes, Moduſes, Compoſitions, or Payments in lieu of Tithes, ſhall have been ſet out and allotted, as he might or could have done in caſe this Act had not paſſed; and in caſe ſuch Tithes ſhall determine before the End of any current Year, it ſhall be lawful for the ſaid Commiſſioners to apportion the ſame between the ſaid *Moſes Hodges Bartholmew* or the Rector for the Time being of the ſaid Rectory, and the Tenants or Occupiers of Lands, Tenements, and Hereditaments in the ſaid Pariſh of *Benington*, and to declare what Sum and Sums of Money ſhall be reſpectively paid to the ſaid *Moſes Hodges Bartholmew*, or to the Rector for the Time being of the ſaid Rectory, for the Fraction of the Year which ſhall elapſe prior to ſuch Determination.

Proprietors of old Incloſures who have not ſufficient Lands to make Compenſation for Tithes, to pay the Value thereof in Money.

XXXIII. Provided always, and be it further enacted, That in caſe there are any Houſes, Toftſteads, Homeſteads, Gardens, Orchards, or incloſed Lands or Grounds in the ſaid Pariſh of *Benington*, ſubject or liable to the Payment of Tithes, either Great or Small, or to any Modus or other Compoſition or Payment in lieu of Tithes, the reſpective Proprietors whereof ſhall not happen to be entitled to any, or a ſufficient Quantity or Share of the ſaid Parochial or General Allotment or Allotments, or of the ſaid Marſhes, Commonable Lands and Waſte Grounds hereby directed to be embanked, divided, and incloſed, to make Compenſation for ſuch Tithes as herein-before directed, ſuch Proprietors ſhall reſpectively pay, or cauſe to be paid unto ſuch Perſon or Perſons, and at ſuch Time or Times as the

the ſaid Commiſſioners ſhall direct or appoint, ſuch Sum or Sums of Money, as in the Judgment of the ſaid Commiſſioners ſhall be a juſt and full Compenſation and Satisfaction for the Tithes or other Payments in lieu thereof, iſſuing or payable out of ſuch Houſes, Toftſteads, Homeſteads, Gardens, Orchards, or incloſed Lands or Grounds reſpectively, or ſuch Part of the ſame for which the Proprietors thereof may not be poſſeſſed of Land ſufficient to make Compenſation for the Tithes thereof as aforeſaid, and alſo ſuch Sum and Sums of Money as the ſaid Commiſſioners ſhall determine to be juſt and fair for the Proprietors of ſuch old incloſed Lands to contribute towards defraying the Coſts, Charges, and Expences of obtaining and paſſing this Act, and carrying the ſame into Execution, not exceeding Twenty Shillings for every Acre of Land ſo diſcharged from Tythes; and in caſe any Perſon or Perſons ſhall refuſe or neglect to pay ſuch Sum or Sums of Money as laſt aforeſaid, at the reſpective Days and Times to be appointed for Payment thereof, it ſhall be lawful for the ſaid Commiſſioners, by any Warrant or Warrants under their Hands and Seals, directed to any Perſon or Perſons whomſoever, to cauſe ſuch Sum or Sums of Money to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo making Default in Payment as aforeſaid, his, her, or their Huſbands, Guardians, Truſtees, Committees, or Attornies, whereſoever the ſame ſhall be found, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels, the reaſonable Charges of ſuch Warrant, Diſtreſs, and Sale being firſt deducted, together with Intereſt after the Rate of Five Pounds *per Centum per Annum*, to be computed on ſuch Sum or Sums of Money from the Time the ſame ſhall be directed to be paid by the ſaid Commiſſioners as aforeſaid; or otherwiſe it ſhall be lawful for the ſaid Commiſſioners, or any Perſon or Perſons authorized by them, to enter upon and take Poſſeſſion of the Lands or Tenements belonging to the Perſon or Perſons ſo refuſing or neglecting to pay as aforeſaid, and which ſhall have been diſcharged from Tithes by virtue of this Act, and to receive and take the Rents and Profits thereof, until thereby or therewith or otherwiſe ſuch Sum and Sums of Money, and the Coſts and Charges ſo ordered and directed by the ſaid Commiſſioners to be paid by ſuch Perſon or Perſons as aforeſaid, and all Intereſt on ſuch Sum and Sums of Money to be computed from the Time the ſame ſhall by the ſaid Commiſſioners be directed to be paid as aforeſaid, and alſo all ſuch Coſts, Charges, and Expences, occaſioned by or attending ſuch Entry upon and Receipt of the Rents and Profits of the ſame Premiſes, ſhall be fully paid and ſatisfied: Provided always, that if any Sum or Sums of Money ſhall by the ſaid Commiſſioners be awarded or directed to be paid for the Benefit of any Perſon or Perſons who ſhall not be a Tenant or Tenants in Fee Simple, then ſuch Sum or Sums of Money ſhall be applied and diſpoſed of in the ſame Manner as any Sum of Money to be paid for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Sum of Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes, is by the ſaid Act ſecondly herein recited authorized or directed to be applied and diſpoſed of.

No Perſon to ſhare the Parochial Allotments in the Eaſt and Weſt

XXXIV. Provided always, and be it further enacted, That no Owner or Proprietor of any Houſe, Toftſtead, Lands, or Grounds in the ſaid Pariſh of *Benington*, ſhall be deemed or conſidered to be entitled to any Right of Common or other Right whatſoever, on the ſaid Parochial or

Fens, whoſe Rights are not allowed by the Commiſſioners under the ſaid firſt recited Act.

General Allotment or Allotments, ſet out for the ſaid Pariſh of *Benington*, under or by virtue of the ſaid Act firſt herein recited, who was not allowed and determined to have Right of Common or other Rights in the ſaid Fens, called *The Eaſt and Weſt Fens*, on the Diviſion thereof, and which Rights are not or ſhall not be ſet forth in the Award of the Commiſſioners, made or to be made in purſuance of the ſaid Act firſt herein recited.

Declaring Allotments to be ſet out to Proprietors of Eſtates in Benington, under 41 G. 3. firſt recited, to be Part of the Pariſh of Benington.

XXXV. And be it further enacted, That ſuch Parts of the ſaid *Eaſt Fen* as have been allotted under or by virtue of the ſaid Act firſt herein recited, unto and for the Uſe and Benefit of the Owner or Owners, Proprietor or Proprietors of any Houſes, Toftſteads, Lands, or Grounds in the ſaid Pariſh of *Benington*, ſhall, from the Time of ſetting out and fencing ſuch Allotment or Allotments, be for ever deemed and taken, to all Intents and Purpoſes whatſoever, to be within and Part of the ſaid Pariſh of *Benington*, and ſhall be accordingly rated to all Parliamentary and Parochial Taxes and Aſſeſſments within ſuch Pariſh.

Allotments to be of the ſame Tenure as the Lands in reſpect of which they are made.

XXXVI. And be it further enacted, That all Allotments of Marſhes, Lands, and Grounds, which ſhall be ſet out and allotted in purſuance of this Act, ſhall be held by the ſame Tenure, and ſhall be ſubject to the ſame yearly and other Rents (except ſuch as may be eſpecially commuted for by this Act) and Payments, Reliefs, and Fines, Dues, Duties, Suits, and Services, as the ſeveral and reſpective Lands, Tenements, Tithes, and Hereditaments, in reſpect of which the ſaid ſeveral Allotments ſhall be ſo ſet out or allotted are and have heretofore been holden reſpectively.

Separate Allotments to be made for Eſtates held under ſeparate Titles.

XXXVII. And be it further enacted, That in caſe any Proprietor or Proprietors of any Lands, Tenements, or Hereditaments, within the ſaid Pariſh of *Benington*, ſhall hold the ſame for different Eſtates in different Rights or under different Titles, the ſaid Commiſſioners ſhall, upon the Requeſt of any ſuch Proprietor or Proprietors, in and by their Award aſſign, ſet out, and allot diſtinct and ſeveral Allotments, by diſtinct and ſeveral Deſcriptions, for and in reſpect of each of the ſeveral Eſtates ſo held for different Eſtates in different Rights and under different Titles as aforeſaid, and ſhall declare in right of what Eſtate or Eſtates ſuch Allotment or Allotments reſpectively ſhall have been made.

Commiſſioners to direct the Courſe of Huſbandry.

XXXVIII. And be it further enacted, That from and after the paſſing of this Act, until the Execution of the ſaid Award, all the Arable and Graſs Lands hereby directed to be divided and allotted ſhall be ſubject and liable to ſuch Directions and Regulations as the ſaid Commiſſioners ſhall from Time to Time, by any Writing under their Hands, order, direct, or appoint, as well with regard to the ſtocking as to the ploughing, tilling, ſowing, and laying down the ſame, any Uſage or Cuſtom of ſtocking or ſowing to the contrary notwithſtanding; and the Charges and Expences attending ſuch ploughing, ſowing, and tilling, ſhall be paid by the reſpective Perſons who ſhall receive the Benefit thereof, at ſuch Time, and in ſuch Manner and Proportions, as the ſaid Commiſſioners ſhall, by any Writing or Writings under their Hands, direct and appoint, and ſhall be recoverable and recovered in ſuch Manner and by ſuch Ways and Means as the Expences of this Act are herein-after directed to be raiſed, levied, and recovered; and no Part of the Graſs, Paſture, or freſh Ground, hereby directed to be divided and allotted, and not in Tillage at the

the Time of paſſing this Act, ſhall, without the Conſent in Writing of the ſaid Commiſſioners, before the Allotment thereof, be ploughed, broken up, or converted into Tillage; and every Occupier of any of the Lands and Grounds by this Act directed to be divided and allotted, who ſhall refuſe or neglect to comply with any ſuch Direction of the ſaid Commiſſioners, or who ſhall plough, break up, or convert into Tillage any ſuch Graſs, Paſture, or freſh Ground, without the Conſent in Writing of the ſaid Commiſſioners, ſhall forfeit and pay a Sum not exceeding Ten Pounds for every Acre of ſuch Tillage Land, with reſpect to which ſuch Refuſal or Neglect ſhall happen, and for every Acre of ſuch Graſs, Paſture, or freſh Ground, which ſhall be ploughed, broken up, or converted into Tillage; and ſo in Proportion, in each Caſe, for a greater or leſs Quantity than an Acre.

Exchanges to be made.

XXXIX. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot, and award any Lands, Tenements, or Hereditaments, within the ſaid Pariſh of *Benington*, in lieu of or in Exchange for any other Lands, Tenements, or Hereditaments within the ſaid Pariſh, or within any adjoining Pariſh, Townſhip, or Place: Provided, that all ſuch Exchanges be aſcertained, ſpecified, and declared, in the ſaid Award of the ſaid Commiſſioners, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, Hereditaments, and Premiſes, which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors, ſhall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, by and with the Conſent of the Leſſor or Leſſors, but not otherwiſe, or with the Conſent of the Guardians, Truſtees, Feoffees for charitable or other Uſes, Huſbands, Committees, or Attornies of or acting for any ſuch Proprietors or Owners as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, ſuch Conſent to be teſtified in Writing under the Common Seal of the Body or Bodies Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange or Exchanges ſo to be made, ſhall be good, valid, and effectual in the Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchanges ſhall be made of any Lands, Tenements, or Hereditaments, held by the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, in right of the ſaid Rectory, or by any other Perſon or Perſons in right of any Church, Chapel, or other Eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments, ſo to be exchanged, ſhall lie and be ſituate: Provided always, that all the Coſts, Charges, and Expences, attending the making and completing of any Exchanges or Partitions, ſhall be paid and borne by the ſeveral Owners making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall, by any Writing under their Hands, or by their ſaid Award, order and direct.

Coſts of Exchanges and Partitions how to be paid.

XL. And

Power for the Rector to grant Leaſes.

XL. And be it further enacted, That it ſhall be lawful for the Rector of the ſaid Rectory of *Benington* aforeſaid for the Time being, by Indenture or Indentures under his Hand and Seal, with the Conſent and Approbation of the Biſhop of the Dioceſe, and of the Patron of the ſaid Rectory, to leaſe or demiſe all or any Part or Parts of the Allotment or Allotments to be ſet out and allotted to ſuch Rector by virtue of this Act, to any Perſon or Perſons whomſoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the paſſing of this Act; ſo that the Rent or Rents for the ſame ſhall be thereby reſerved to the Rector for the Time being, by Four equal Quarterly Payments in every Year, and ſo that there be thereby alſo reſerved and made payable to ſuch Rector the beſt and moſt improved Rent or Rents that can reaſonably be had or gotten for the ſame, without taking any Fine, Foregift, Premium, Sum of Money, or other Conſideration, for the making or granting any ſuch Leaſe or Demiſe; and ſo that no ſuch Leſſee by any ſuch Leaſe or Demiſe be made diſpuniſhable for Waſte by any expreſs Words to be therein contained; and ſo that there be inſerted in every ſuch Leaſe, Power of Re-entry on Non-payment of the Rent or Rents to be thereby reſerved, within a reaſonable Time to be therein limited, after the ſame ſhall become due; and ſo that a Counterpart of ſuch Leaſe be duly executed by the Leſſee or Leſſees to whom ſuch Leaſe ſhall be ſo made as aforeſaid; and every ſuch Leaſe ſhall be valid and effectual; any Thing in the ſaid Act ſecondly herein recited, or any Law or Uſage to the contrary notwithſtanding.

Leaſes at Rack Rent to be void;

except Agreements to the contrary.

XLI. And be it further enacted, That all and every Leaſe and Leaſes, Agreements and Tenancies, at Rack Rent, now ſubſiſting, of any Part or Parts of the Marſhes, Lands, and Grounds hereby directed to be embanked, divided, and incloſed, or which ſhall by virtue of this Act or the ſaid Act ſecondly herein recited, be exchanged or diſcharged from Tithes or Compoſition for Tithes; and of all Lands, Tenements, or Hereditaments in the ſaid Pariſh of *Benington*, held therewith, or included in ſuch Leaſe or Leaſes reſpectively, unleſs covenanted or agreed in ſuch Leaſes, or any ſubſequent Agreements to the contrary, ſhall ceaſe and be void at ſuch Time or Times as the ſaid Commiſſioners ſhall, by Writing under their Hands order and direct; ſo as the reſpective Leſſors or Landlords of ſuch Lands, Tenements, or Hereditaments, do, before or at the reſpective Times at which ſuch Leaſes or Tenancies ſhall be directed to ceaſe, make and pay ſuch Satisfaction to the reſpective Leſſees or Tenants, for the Loſs or Injury (if any) which they ſhall ſuſtain by the Determination of ſuch Leaſes reſpectively, as ſhall be mutually ſettled and agreed upon between them, or as the Commiſſioners (being thereto required by either of the Parties) ſhall aſcertain and direct: Provided always, that if there ſhall be any Leaſe or Leaſes of Lands, Part of which ſhall lie in the Pariſh of *Benington* aforeſaid, and Part in any adjoining Pariſh or Pariſhes, all and every ſuch Leaſe or Leaſes at Rack Rent now ſubſiſting, ſo far as the ſame relate to the Premiſes in the ſaid Pariſh of *Benington*, may and ſhall be vacated (except as aforeſaid); but where any Lands ſhall have been taken in Exchange, which Lands ſhall be under Leaſe, and wholly ſituated in any adjoining Pariſh or Pariſhes, the Leaſe or Leaſes of ſuch laſt-mentioned Lands ſhall not be vacated.

Settlements not to be affected nor Wills revoked.

XLII. Provided always, and be it further enacted and declared, That nothing in this Act contained ſhall extend or be conſtrued or adjudged to extend to revoke, make void, annul, or alter any Settlement, Deed, Will, or Leaſe, or to prejudice any Perſon having any Right or Claim of Dower, Jointure, Annuity, Debt, Charge, or Incumbrance whatſoever, in, out of, upon, or affecting any of the Marſhes, Lands, Tenements, or Hereditaments hereby directed to be embanked, divided, and incloſed, or which ſhall be exchanged or aſſigned in Compenſation for any other Eſtate or Right in purſuance of this Act; but as well the Lands allotted as the Tenements or other Hereditaments which ſhall be aſſigned in Exchange or in Compenſation for another Eſtate or Right, ſhall, immediately after ſuch Allotment, Exchange, or Aſſignment ſhall be made, be veſted, remain, and enure, and the ſeveral Perſons to whom the ſame ſhall be allotted, aſſigned, or given in Exchange as aforeſaid, ſhall thenceforth ſtand and be ſeiſed and poſſeſſed thereof reſpectively, to, for, and upon ſuch and the ſame Uſes, Eſtates, Intereſts, Truſts, and Purpoſes reſpectively, and ſubject and liable to ſuch and the ſame Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Rents, and Incumbrances, as the ſeveral Lands, Tenements, and Hereditaments, in reſpect whereof ſuch Allotments, Aſſignments, and Exchanges ſhall have been made, ſhould or would have ſtood ſeverally limited, ſettled, veſted, or been ſubject or liable to, or have been held by, in caſe the ſame had not been aſſigned or exchanged, and this Act had not paſſed; ſave and except ſuch Rent as ſhall have been compenſated for and extinguiſhed, and ſuch Leaſes and Tenancies at Rack Rent as ſhall become void by virtue of this Act, and ſubject nevertheleſs to all ſuch Mortgages and Sales as ſhall be made by Authority of this Act, or of the ſaid Act ſecondly herein recited.

Proprietors may ſell Common Rights, and other Eſtates, before the Execution of the Award.

XLIII. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons intereſted in the Marſhes, Lands and Grounds hereby directed to be embanked, divided, and incloſed, at any Time before the Execution of the ſaid Award, to ſell and diſpoſe of the Right of Common, or other Right, Intereſt, and Property, which he, ſhe, or they ſhall have therein, and to convey the ſame to the Purchaſer or Purchaſers thereof reſpectively, by Grant, Bargain, and Sale inrolled, or by Leaſe and Releaſe or other Deed or Writing, according to the Tenure of the Eſtate or Intereſt in reſpect whereof ſuch Allotments ſhall be made, ſeparate from the Eſtate or other Intereſt in right of which he, ſhe, or they ſhall be ſo entitled as aforeſaid; and it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required, upon the Conveyance or other Inſtrument by which the Sale or Diſpoſition hath been or ſhall from Time to Time be made or effected, or by which any ſuch Right or Intereſt may have been reſerved, being produced to them, and the Execution of ſuch Conveyance or other Inſtrument being proved to their Satisfaction, to make an Allotment to the Perſon or Perſons reſpectively entitled to the Right or Intereſt conveyed or reſerved in or by ſuch Conveyance or other Inſtrument, at the Time of making and ſetting out the Allotments by this Act directed to be made.

Lands to be ſold for defraying Expences.

XLIV. And be it further enacted, That for providing a Fund for defraying the Coſts, Charges, and Expences of obtaining this Act, and of embanking and draining the ſaid Marſhes, and of incloſing the Allotment or Allotments hereby directed to be made to the Surveyors of the High-

ways within the Parish of *Benington*, and to the said *Moses Hodges Bartholmew*, or the Rector for the Time being of the said Rectory, and all the Costs of surveying, admeasuring, planning, valuing, dividing and allotting the Marshes, Lands, and Grounds hereby directed to be embanked, divided, and inclosed, and of preparing the Award of the said Commissioners, and all the Charges and Expences of the several Persons to be employed by the said Commissioners in and about the Premises, either before or after the Execution of the said Award, and all the Expences of forming, completing and repairing the public Carriage Roads and Highways, to be set out and appointed by the said Commissioners within the said Parish of *Benington*, and all other Expences of carrying this Act and the said Act secondly herein recited into Execution, it shall be lawful to and for the said Commissioners, and they are hereby authorized, empowered and required, as soon as conveniently may be after the passing of this Act, from Time to Time to sell and dispose of such Parts and Parcels of the said Marshes, Commonable Lands and Waste Grounds, and of the said Parochial or General Allotment or Allotments, as they shall judge most proper and expedient, and as shall be requisite for the Purposes aforesaid, free and exempt from all and all Manner of Tithes whatsoever, in Lots not exceeding Ten Acres in each Lot, by public Auction to the highest Bidder or Bidders, at some of their Meetings to be held in pursuance of this Act, of which public Notice shall be given by the said Commissioners in *The Lincoln, Rutland* and *Stamford Mercury*, or in some other Newspaper as aforesaid, Three Weeks at the least before such Sale or Sales shall be made; and the Purchaser and Purchasers at every such Sale shall immediately pay to the said Commissioners One-tenth Part of his, her, or their Purchase Money, as and for a Deposit, and shall enter into an Agreement to pay the Residue of such Purchase Money at the Time to be limited by the Conditions of Sale of the said Premises, into the Hands of the said Commissioners, who are hereby authorized to give Receipts for the same, and also for the Money to be paid as and for a Deposit as aforesaid: Provided always, that if any Purchaser having made such Deposit as aforesaid shall not pay the Whole of the Purchase Money within the Time appointed for the Payment thereof by the said Conditions of Sale, the Money so deposited shall become forfeited to the said Commissioners, and shall be by them applied for the Purposes of this Act, and it shall be lawful for the said Commissioners giving such Notice as aforesaid to put up again to Sale such Lot or Lots for which the Whole of such Purchase Money shall not have been paid, and so *toties quoties* until the same shall be sold; or the said Commissioners may, if they shall think proper, sell and dispose of such Lot or Lots by private Contract for the best Price or Prices that can be gotten for the same; and all Lands to be sold under or by virtue of this Act, on Payment of the full Purchase Money for the same, shall be conveyed as Freehold of Inheritance in Fee Simple, free from Tithes as aforesaid, unto the Purchaser or Purchasers thereof respectively, and a Conveyance or Conveyances of the same, by Lease and Re-lease made and executed by the said Commissioners shall be valid and effectual in the Law to vest the same in such Purchaser or Purchasers, and his, her and their respective Heirs and Assigns, absolutely for ever, subject and liable to such Orders, Directions and Restrictions as shall be laid down and appointed by the said Commissioners in and by their Award, by the said Act secondly herein recited directed to be made; and the said Commissioners shall, after Payment of the Costs, Charges and Expences attending such Sale or Sales, or in anywise relating thereto, pay and apply the Residue of the Monies arising therefrom for the Purposes aforesaid.

XLV. And

Application of Surplus Money.

XLV. And be it further enacted, That in caſe any Surplus Money ſhall remain after all ſuch Coſts, Charges, and Expences ſhall have been fully paid and ſatisfied, ſuch Surplus Money ſhall be divided and apportioned between the ſeveral Proprietors of the Marſhes, Lands and Grounds hereby directed to be embanked, divided and incloſed, according to their ſeveral and reſpective Rights and Intereſts therein; and ſuch proportional Parts and Shares of ſuch Surplus Money ſhall be paid to thoſe Proprietors who are Tenants in Fee Simple of the Eſtates in Right of which they ſhall be entitled to ſuch Surplus Money; but the Surplus Money to which any Proprietor not being Tenant in Fee Simple may be entitled, ſhall be applied and diſpoſed of in the ſame Manner as any Money to be paid for the Purchaſe or Exchange of Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe or Exchange of other Lands, Tenements or Hereditaments, to be ſettled to the ſame Uſes, is by the ſaid Act ſecondly herein recited directed to be applied and dipoſed of.

Deficiency (if any) to be made good by a Rate.

XLVI. Provided always, and be it further enacted, That in caſe the Money ariſing by ſuch Sale or Sales ſhall not be ſufficient to defray all the Coſts, Charges, and Expences aforeſaid, then the Deficiency ſhall be made good by the ſeveral Perſons intereſted in the ſaid Marſhes, Open Fields, Ings, Commonable Lands and Waſte Grounds, or in any incloſed Lands which ſhall be diſcharged from Tythes by virtue of this Act (except the ſaid *Moſes Hodges Bartholmew*, or the Rector for the Time being of the ſaid Rectory, in reſpect of his Glebe and Tythe Allotments) hereby directed to be divided and incloſed, and ſhall be paid in ſuch Shares and Proportions, within ſuch Time, and to ſuch Perſon or Perſons as the ſaid Commiſſioners ſhall direct, nominate and appoint; and in caſe any Perſon herein-before made ſubject to the Payment of any Money towards ſuch Charges or Expences as aforeſaid, ſhall neglect or refuſe to pay his or her Share or Proportion thereof within the Time to be appointed as aforeſaid, or at any Time after upon Demand, the ſame ſhall and may be levied and recovered in the Manner directed by the ſaid Act ſecondly herein recited.

Commiſſioners may borrow Money until Sale.

XLVII. And be it further enacted, That in caſe it ſhall be found expedient or neceſſary before ſuch Sale can be effected to raiſe any Sum or Sums of Money for defraying the Expences aforeſaid, it ſhall be lawful for the ſaid Commiſſioners to borrow and take up at Intereſt, ſuch Sum or Sums of Money as they ſhall from Time to Time think neceſſary for the Purpoſes aforeſaid; which Money ſo to be borrowed ſhall be repaid with Intereſt, after the Rate of Five Pounds *per Centum per Annum*, out of the Monies to be raiſed from ſuch Sale or Sales as aforeſaid.

Empowering Commiſſioners in certain Caſes to ſell Part of Allotments to defray Expences of fencing and ſubdividing.

XLVIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, on Application being made to them in Writing by any of the Huſbands, Guardians, Truſtees, Committees or Attornies, of or for any of the ſaid Proprietors or Perſons intereſted in the Premiſes, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or by the Perſons acting as ſuch Guardians, Truſtees, Committees or Attornies reſpectively, or by any of the ſaid Proprietors of the Marſhes, Lands and Grounds hereby directed to be embanked, divided, allotted and incloſed, or any Part thereof, who are or ſhall be Tenant or Tenants in Tail, or for any Life or Lives, or on any

other Contingency, or by any Truſtees or Feoffees for any Charitable, Parochial or other Uſes, or a competent Number of ſuch Truſtees or Feoffees, or the major Part of them reſpectively, in reſpect of any Land held by them reſpectively upon Truſt for any Charitable, Parochial or other Uſes, to ſell any Part of the Allotment or Allotments to be made from or out of any of the ſaid Marſhes, Lands and Grounds by virtue of this Act, to ſuch incapacitated Proprietor or Proprietors, or other Perſon or Perſons by whom or on whoſe Behalf any ſuch Application ſhall be made as aforeſaid, for the Purpoſe of raiſing a Sum of Money ſufficient to defray the Coſts, Charges, and Expences of fencing, incloſing and ſubdividing his, her, or their Allotment or Allotments, and of making and completing ſuch Sale; and ſuch Sale ſhall be made by the ſaid Commiſſioners, in ſuch and the ſame Manner and ſubject to ſuch and the like Rules and Regulations as are mentioned and preſcribed in and by the ſaid Act ſecondly herein recited, in reſpect of the Sale of any Lands authorized to be ſold for paying the Expences of obtaining and carrying into Execution any Act for dividing, allotting and incloſing any Lands or Grounds; and each and every Allotment for which the full Purchaſe Money ſhall be paid, ſhall be conveyed by the ſaid Commiſſioners, at the Expence of ſuch Purchaſer or Purchaſers, unto and to the Uſe of or in Truſt for ſuch Purchaſer or Purchaſers, and his, her or their Heirs reſpectively, or as he, ſhe, or they ſhall appoint, and ſhall be incloſed and held by ſuch Purchaſer or Purchaſers reſpectively in Severalty; and the Receipts of the ſaid Commiſſioners ſhall be a good and ſufficient Diſcharge to ſuch Purchaſer or Purchaſers for the ſaid Purchaſe Money, which ſhall be applied by the ſaid Commiſſioners in or towards defraying ſuch laſt mentioned Coſts, Charges, and Expences; and if any Surplus ſhall remain in the Hands of the ſaid Commiſſioners, ſuch Surplus Money ſhall be applied and diſpoſed of in Manner directed by the ſaid Act ſecondly herein recited, with reſpect to Money which is thereby directed to be paid into the Bank of *England*, for the Purchaſe or Exchange of any Lands, Tenements or Hereditaments to be ſettled to the ſame Uſes, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchaſe of other Lands, Tenements and Hereditaments, as therein mentioned: Provided always, that it ſhall not be lawful by virtue of this Act to raiſe by ſuch Sale, any further or greater Sum of Money, for the Purpoſe of defraying the Coſts, Charges, and Expences of fencing, incloſing and ſubdividing ſuch Allotment or Allotments as aforeſaid, than the Perſon or Perſons, Part of whoſe Allotment or Allotments ſhall be ſold as aforeſaid, would have been empowered or authorized to borrow or charge upon his, her, or their Allotment or Allotments reckoning Five Pounds for each and every Acre thereof, under or by virtue of the ſaid Act ſecondly herein recited, for the Purpoſe of defraying the Coſts, Charges and Expences of obtaining and executing this Act, in caſe the Expences of obtaining and executing this Act had been directed to be paid in Proportion by the Proprietors of Lands or Grounds to whom Allotments ſhall be made, inſtead of being raiſed by Sale of Land, as by this Act is directed: Provided always, that in all Caſes where the Money ſo raiſed by the Sale of ſuch Allotment or Allotments ſhall not be equal and amount to the Sum or Sums of Money that might be borrowed or charged on ſuch Allotment or Allotments, reckoning Five Pounds for each and every Acre thereof, then and in every ſuch Caſe it ſhall be lawful for the Proprietor or Perſon, Part of whoſe Allotment ſhall be ſo ſold as aforeſaid, to charge his or her Allotment or Allotments, by virtue of the ſaid Act ſecondly

In caſe Land to the Amount of 5l. an Acre be not ſold, Deficiency may be borrowed on Allotments.

secondly herein recited, or this Act, with any Money towards Payment of any Costs, Charges and Expences of obtaining and executing this Act, not exceeding the Excess or Difference.

Tenants for Life, &c. of old Inclosures empowered to charge their Estates with Money paid for discharging the same from Tithes.

XLIX. Provided always, and be it further enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, Committees, or Attornies, of any of the Owners or Proprietors of Houses, Toftsteads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds in the said Parish of *Benington*, not having a sufficient Quantity of the Marshes, Lands and Grounds hereby directed to be embanked, divided, and inclosed, to discharge his, her, or their Old Inclosures from Tithes, being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, or for any of the Owners or Proprietors being Tenants in Tail or for Life or Lives, or for Years determinable on a Life or Lives, or on any other Contingency or otherwise, interested as aforesaid, to charge such Houses, Toftsteads, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, with such Sum or Sums of Money as the said Commissioners shall, by their Award, or any other Writing under their Hands previous thereto, declare to have been paid for the Discharge of the Tithes thereof, and also with any additional or further Sum or Sums of Money, not exceeding in any Case One Pound an Acre, for every Acre of Land discharged from Tythes as aforesaid, which the said Commissioners shall direct to be paid by them, for their respective Shares of the Charges and Expences incident to and attending the obtaining of this Act and carrying the same into Execution; and to grant, mortgage, surrender, lease, or demise, or otherwise subject such Houses, Toftsteads, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, unto such Person or Persons as shall advance and lend such Sum and Sums of Money respectively, his, her or their Executors, Administrators, and Assigns, for any Term or Number of Years; or in case any Person in Possession who shall be charged with a Sum or Sums of Money as aforesaid, shall chuse to advance, pay, or discharge the same, it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals, to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, demise, or otherwise subject the said Houses, Toftsteads, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, to such Person or Persons respectively paying or discharging the same, and to his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sums of Money as aforesaid, with Interest for the same, to commence on the Termination of his, her, or their Right in the Premises; so that every such Grant, Mortgage, Surrender, Lease, or Demise, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when such Sum or Sums of Money thereby to be secured shall have been fully paid and satisfied; and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming entitled to any such Houses, Toftsteads, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Grant, Mortgage, Surrender, Lease, or Demise, shall be good, valid, and effectual in the Law, for the Purposes thereby intended.

Commissioners Allowance.

L. And be it further enacted, That out of the Money that shall be raised for defraying the Expences of obtaining and carrying this Act into Execution, there shall be paid to each of the said Commissioners, as a Recompence for his Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each Day he shall be employed in travelling to, returning from, and attending in the Execution of this Act; and but One Meeting shall be charged for by the said Commissioners for any One Day.

Commissioners and Parties to pay their own Expences at Meetings.

LI. And be it further enacted, That the said Commissioners, their Clerk or Clerks, the Surveyors and Proprietors, their Attornies or Agents, and their Attendants, shall pay their own Expences and the Expences of Servants attending them, at all Meetings to be held in the Execution of this Act.

Money advanced for obtaining the Act to be repaid with Interest.

LII. And be it further enacted, That if any Person or Persons shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the said Commissioners, together with lawful Interest for the same, out of the first Monies to be raised by virtue of this Act.

Auditor of the Commissioners Accounts.

LIII. And be it further enacted, That *Augustus Duggan* of *Boston*, in the County of *Lincoln*, Esquire, shall be and is hereby appointed Auditor of the Accounts of the said Commissioners; and in case of his Death or Refusal to act, then some other fit and proper Person, not interested in the Premises, shall be appointed Auditor for that Purpose, in like Manner as is herein-before provided for the Appointment of a future Commissioner in the Place of the said *Henry De Bruyn* and *William Thacker*, or of either of them, and so from Time to Time as often as Occasion shall require; and the Accounts of the said Commissioners for the Time being, containing a true Statement of all Sums by them received and expended, or due to them for their own Time, Trouble, or Expences, shall at least once in every Year from the passing of this Act, until such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined by the said Auditor for the Time being, and the Balance by him stated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall be duly allowed by the said Auditor.

Award to be deposited.

LIV. And be it further enacted, That the Award to be made by the said Commissioners, under or by virtue or in pursuance of this Act and the said Act secondly herein recited, shall be inrolled with the Clerk of the Peace for the Parts of *Holland*, in the said County of *Lincoln*, and when so inrolled shall be deposited in the Church of *Benington* aforesaid; and a true Copy of such Inrolment, or of any Part thereof, certified under the Hand of the said Clerk of the Peace or his Deputy for the Time being (for which Copy Four-pence *per* Sheet, reckoning Seventy-two Words to each Sheet, shall be paid, and no more), shall be allowed and admitted as Evidence in all Courts of Law or Equity.

Works in the Marshes to be under the

LV. And be it further enacted, That after the said Banks, Drains, Sluices, Tunnels, and other Works, in, over, or upon the said Marshes,

shall be made and perfected, and the said Commissioners shall have made and executed their Award, the said Banks and other Works, in, over, or upon the said Marshes, shall from Time to Time be under the Care and Inspection of, and as often as Occasion may require, shall be repaired, amended, and kept in good Repair and Condition, by a Person to be appointed Surveyor thereof, by a Majority in Value of the several Proprietors for the Time being of the said Marshes hereby directed to be embanked and inclosed; such Value to be ascertained by the Number of Acres of each Proprietor in the said Marshes, who shall be present at a Meeting to be held in the said Parish of *Benington*, on the *Thursday* in *Easter* Week in every Year; and in case there shall be an Equality in the Votes of the Proprietors then present, then the Proprietor present at such Meeting, who shall be the Owner of the greater Number of Acres in the said Marshes, shall have the casting Vote; and every Surveyor who shall be so appointed, shall be allowed and paid such yearly or other Salary or Wages for his Trouble as shall at the Time of his Appointment to his said Office be thought reasonable; and in case no other Surveyor shall be appointed at such annual Meeting as aforesaid, then the Surveyor for the Time being shall continue in his said Office at the same Salary and Wages, or at such other Salary or Wages as may be agreed upon, for his Trouble for the succeeding Year, unless he shall be desirous of resigning such Office, and of such his Desire shall have given public Notice in the Parish Church of *Benington* aforesaid, immediately after Divine Service, or on the Door of the said Church, upon some *Sunday* at least Three Weeks before the Time of holding such annual Meeting.

Inspection of a Surveyor.

LVI. And be it further enacted, That if the said Surveyor so to be appointed as aforesaid shall happen to die before the Expiration of the Year for which he shall have been appointed, or shall become incapable of executing his said Office of Surveyor, or shall misconduct himself therein, then and in any of the said Cases it shall and may be lawful to and for any of the Proprietors for the Time being of the said Marshes hereby directed to be embanked and inclosed, to call a Meeting of the several Proprietors of the said Marshes (of which Meeting and the Purposes thereof public Notice shall be given in Writing, to be affixed on the outer Door of the Parish Church of *Benington* aforesaid, on some *Sunday* at least Fourteen Days previous to such Meeting), for the Purpose of choosing another Surveyor for the then Residue of the Year, and until the next annual Meeting of the Proprietors of the said Marshes, or for the Purpose of removing any Surveyor becoming incapable of executing his said Office, or misconducting himself therein; and the Majority in Value, to be ascertained as aforesaid, of such Proprietors so assembled as aforesaid, shall appoint another Surveyor; and the Surveyor who shall be from Time to Time so appointed shall be paid a Proportion of the Salary allowed to the Surveyor who shall die or be discharged, according to the Time which shall be then to come of the Year; and the Salary of every Surveyor so dying or being discharged as aforesaid shall cease at the Time of his Death, or of his being discharged from his Office as aforesaid.

How Surveyor is to be appointed on Vacancies.

LVII. And be it further enacted, That if, after the said Embankment and Drainage of the said Marshes shall have been completed, it shall be necessary to make any Alteration in the Banks, Drains, Sluices, or other Works to be so made upon or in the said Marshes, or to make any new

Surveyor may erect new Works;

Bank

Bank or Banks, Drain or Drains, Tunnels, or other Works upon the ſaid Marſhes, for the better Protection and Drainage of the ſame, ſuch Alteration or new Bank or Banks, Drain or Drains, Tunnels, or other Works, may from Time to Time be made by the Surveyor ſo to be appointed as aforeſaid, by the Order of the Majority in Value, to be aſcertained as aforeſaid, of the Proprietors for the Time being of the ſaid Marſhes, who ſhall be aſſembled at a Meeting to be held for the Purpoſe of determining upon ſuch Alteration or new Work, and which Meeting ſhall be called in the ſame Manner as is herein-before directed with reſpect to the calling of Meetings for the Purpoſe of chooſing or removing a Surveyor, except that Notice in Writing of ſuch Meeting ſhall be given for Three ſucceſſive *Sundays* on the Church Door of *Benington* aforeſaid, previous to ſuch Meeting; and the Expences of making ſuch new Works ſhall be raiſed and paid by a Rate to be aſſeſſed and collected in the ſame Manner as is herein-after directed, with reſpect to the Rates to be made for defraying the Expences of repairing the ſaid Banks, Drains, Tunnels, and other Works to be made by the ſaid Commiſſioners; and in caſe any ſuch Alterations or any new Work as aforeſaid ſhall be made, the ſame when made ſhall be kept in Repair, and may from Time to Time be altered in the ſame Manner as is herein-before directed with reſpect to the ſaid Banks, Drains, Tunnels, and other Works, to be made by the ſaid Commiſſioners as aforeſaid.

and may levy Rates.

LVIII. And be it further enacted, That for the better enabling any Surveyor to be appointed by virtue of this Act, to raiſe Money for the Purpoſe of carrying into Execution the Powers hereby repoſed in him, it ſhall and may be lawful to and for any Surveyor to be appointed by virtue of this Act, when and as often as Occaſion ſhall require, to make an equal Rate or Aſſeſſment upon all and every the Proprietors of the ſaid Marſhes hereby directed to be embanked and incloſed, not exceeding Ten Pounds an Acre; which Rate or Aſſeſſment ſhall be allowed and ſigned by a Majority in Value, ſuch Majority not being leſs than Three in Number, of the Perſons intereſted in ſuch Marſhes (if they think proper) who may be preſent at a Meeting to be called for that Purpoſe; of which Meeting and the Purpoſes thereof, Notice in Writing ſhall be given by affixing the ſame on the Church Door of *Benington* aforeſaid, on Two *Sundays* at the leaſt immediately preceding ſuch Meeting; and every ſuch Rate or Aſſeſſment ſo to be made, ſigned, and allowed as aforeſaid, ſhall be collected and received by the Surveyor for the Time being; and in caſe any of the Proprietors for the Time being of the ſaid Marſhes, ſhall refuſe or neglect to pay any ſuch Rate or Aſſeſſment within Twenty-one Days after the ſame ſhall be ſo made, ſigned, and allowed (being firſt lawfully demanded of ſuch Proprietors reſpectively, or of their Leſſees or Tenants of the ſaid Marſhes for the Time being), then it ſhall and may be lawful to and for any Juſtice of the Peace acting in and for the Diviſion of *Holland*, in the ſaid County of *Lincoln*, to make Enquiry of ſuch Default, by ſummoning (and for ſuch Purpoſe Notice in Writing left at the uſual Reſidence of the Perſon intended to be ſummoned, or of his Leſſee or Tenant, or affixed on ſome conſpicuous Part of his Allotment in the ſaid Marſhes, ſhall be a good Summons) ſuch Proprietor or Leſſee or Tenant of whom ſuch Rate or Aſſeſſment ſhall have been demanded, to appear before ſuch Juſtice, and if the Perſon or Perſons ſo ſummoned, ſhall be adjudged liable to pay the ſaid Rate or Aſſeſſment, either by his own

own Confeſſion, or upon the Oath of the Surveyor for the Time being, or of any other competent and credible Witneſs (which Oath ſuch Juſtice is hereby empowered to adminiſter), or ſhall not appear purſuant to ſuch Summons, ſuch Juſtice ſhall and he is hereby required to levy the ſaid Rate or Aſſeſſment by Diſtreſs and Sale of the Cattle, Stock, and other Effects to be found and taken upon the Lands and Grounds in reſpect whereof ſuch Rate or Aſſeſſment ſhall be and remain unpaid, in the ſame Manner as ſuch Cattle, Stock, and Effects might be diſtrained and ſold for Rent in Arrear, together with the reaſonable Coſts and Charges attending ſuch Summons, Diſtreſs, and Sale, to be ſettled and allowed by ſuch Juſtice, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Cattle, Stock, and Effects.

Lands untenanted, to remain a Security for Taxes.

LIX. Provided always, and be it further enacted and declared, That in caſe any Part of the ſaid Marſhes to be embanked and incloſed as aforeſaid, ſhall at any Time hereafter be untenanted or unoccupied, ſo that no ſufficient Diſtreſs can be made for levying the ſaid Rates or Aſſeſſments, then the Lands and Grounds chargeable therewith, ſhall always remain a Security for Payment thereof, and all Cattle, Stock, Goods, and Effects, which ſhall at any Time thereafter be found thereon, ſhall and may be diſtrained, impounded, kept, and ſold, in Manner aforeſaid, until all Arrears of the ſaid Rates or Aſſeſſments, and the Charges incident to ſuch Diſtreſs, ſhall be fully paid and ſatisfied; and in caſe any Leſſee or Leſſees, Tenant or Tenants, of the Lands and Grounds laſt mentioned, or any Part thereof, ſhall advance and pay ſuch Rates or Aſſeſſments, it ſhall and may be lawful to and for ſuch Leſſee or Leſſees, Tenant or Tenants reſpectively (unleſs there ſhall be any Agreement to the contrary between him, her, or them, and his, her, or their Landlord or Landlords), to reimburſe him, her, or themſelves reſpectively, out of his, her, or their reſpective Rent or Rents, to become payable for the Lands in reſpect whereof ſuch Payments ſhall have been made, and a Tender to the Proprietor or Proprietors of ſuch Lands or Grounds of the Receipt or Receipts of the Surveyor appointed as aforeſaid (and ſuch Receipt or Receipts ſuch Surveyor ſhall and he is hereby required to give on Payment of ſuch Rates or Aſſeſſments) for ſuch Payment or Payments made by ſuch Leſſee or Leſſees, Tenant or Tenants, ſhall be conſidered, deemed, and taken in Part of Payment of ſuch Rent or Rents reſpectively, or ſo much thereof for which ſuch Receipt or Receipts ſhall be ſo given.

Surveyor to account.

LX. And be it further enacted, That every Surveyor ſo to be appointed as aforeſaid, or the Executors or Adminiſtrators of ſuch Surveyors reſpectively, ſhall, at the ſaid annual Meeting to be held in the ſaid Pariſh of *Benington*, and at all other Times when thereunto required by any Five or more of the ſaid Proprietors, render and deliver to the Proprietors aſſembled at the ſaid annual Meeting, or at any other Meeting to be called for the Purpoſe of examining and ſettling the Accounts of the ſaid Surveyor, a true, exact, and juſt Account in Writing, under his the Surveyor's Hand, or under the Hands of his Executors or Adminiſtrators, of all and every Sum and Sums of Money had and received, paid, laid out, and expended by him or them in the Execution of the ſaid Office, together with proper Vouchers for all Monies which ſhall have been ſo received and paid up to the Time of rendering ſuch Account, and ſuch Surveyor ſhall pay to the ſucceeding Surveyor, or unto ſuch other Perſon or Perſons as the Majority

in Value to be aſcertained as aforeſaid of the Proprietors at any ſuch Meeting as aforeſaid, by Writing under their Hands, ſhall authorize to receive the ſame, all Money which ſhall, upon balancing the ſaid Account, be adjudged by the ſaid Proprietors then preſent, or the major Part of them in Value, to be aſcertained as aforeſaid to be due from ſuch Surveyor, and ſhall deliver up the Vouchers, and all Books and Writings reſpecting the ſaid Office, to the ſaid Proprietors, or to ſuch other Perſon or Perſons as ſhall be by them, or the major Part of them in Value, to be aſcertained as aforeſaid, authorized to receive and take the ſame; and in caſe any Surveyor, or the Executors or Adminiſtrators of any Surveyor, ſhall refuſe or neglect to render, give in, and make ſuch Account and Payment as aforeſaid, or ſhall refuſe or neglect to deliver up all ſuch Books, Writings, and Vouchers as aforeſaid, then and in either of the ſaid Caſes, it ſhall and may be lawful to and for any Juſtice of the Peace for the ſaid Diviſion of *Holland*, to make Enquiry of ſuch Default in a ſummary Way; and if any ſuch Surveyor or the Executors or Adminiſtrators of ſuch Surveyor, ſhall thereof be convicted, either by the Confeſſion of the Party, or upon the Teſtimony of any Witneſs upon Oath (which Oath the ſaid Juſtice is hereby empowered to adminiſter) he the ſaid Juſtice ſhall, and is hereby required to commit the Party or Parties ſo offending to the Common Gaol of the ſaid County of *Lincoln*, or to the Houſe of Correction within the ſaid Parts of *Holland*, there to remain, until he or they ſhall have made and rendered a perfect Account and Payment as aforeſaid, and delivered up all the Books and Writings relating to the ſaid Surveyorſhip in his or their Cuſtody, in Manner aforeſaid, unleſs the Surveyor or his Executors or Adminiſtrators who ſhall be ſummoned, ſhall ſhew good Cauſe to the contrary, either by ſhewing the Balance adjudged due to be more than is really due, or in the Caſe of Executors or Adminiſtrators, by ſhewing that their Teſtator or Inteſtate died inſolvent, or did not leave ſufficient Aſſets, or that his Aſſets have been duly and regularly adminiſtered; and the Determination of ſuch Juſtice ſhall be final and concluſive between all the ſaid Parties; and no *Certiorari*, or other Writ, ſhall be allowed to remove the ſame into any of His Majeſty's Courts at *Weſtminſter*, or elſewhere.

Surveyor to give Security.

LXI. And be it further enacted, That every Surveyor who ſhall be appointed as aforeſaid, ſhall give ſuch Security for the due Execution of the ſaid Office, as the Proprietors of the ſaid Marſhes for the Time being ſhall at the Time of ſuch Appointment think reaſonable and neceſſary.

Penalty for deſtroying Works.

LXII. And be it further enacted, That if any Perſon or Perſons ſhall wilfully and maliciouſly demoliſh, break down, damage or deſtroy, any Bank, Outlet, Sluice, Gout, Clough, Bridge, Tunnel or other Works to be made or erected by virtue of this Act, or any Part thereof, every ſuch Perſon ſhall be deemed guilty of a Miſdemeanor; and the Court by and before whom ſuch Perſon or Perſons ſhall be tried, ſhall have Power and Authority, if they think fit, to cauſe ſuch Perſon or Perſons to be puniſhed by Tranſportation, for any Term not exceeding Seven Years.

For obſtructing the Execution of the Act.

LXIII. And be it further enacted, That if any Perſon ſhall obſtruct, hinder or moleſt any Surveyor to be appointed by virtue of this Act, or any Workman or other Perſon or Perſons, who ſhall be employed by or under him in the Execution of this Act, every ſuch Perſon ſo offending, and being thereof

thereof lawfully convicted, shall for every such Offence, forfeit and pay any Sum not exceeding Forty Shillings.

Recovery of Penalties.

LXIV. And be it further enacted, That all Penalties, Forfeitures and Fines, imposed or authorized to be imposed by virtue of this Act, if the Manner of levying and recovering thereof is not herein otherwise directed, shall be levied and recovered before any One of the Justices of the Peace for the said Division of *Holland*, in the said County of *Lincoln*, not interested in the Matter in Question; for which Purpose it shall be lawful for any such Justice of the Peace, upon Complaint made to him, to summon any Party accused, and the Witnesses on both Sides, and upon the Appearance or Contempt of the Party accused, to examine such Witnesses on Oath (which Oath any such Justice is hereby empowered to administer) and upon such Evidence to give Judgment accordingly, and to condemn the Party accused, Proof of the Accusation being made by One or more Witness or Witnesses as aforesaid, in such Penalties, Forfeitures and Fines, as the Offender or Offenders shall have incurred, and to levy such Penalties, Forfeitures and Fines by Distress and Sale of the Goods and Chattels of the Offender or Offenders, together with the reasonable Costs attending the same; all which Penalties, Forfeitures, and Fines, the Application whereof is not particularly directed by this Act, shall, when and so soon as the same shall be levied, be paid to and applied by the Surveyor for the Time being, for and towards the Support of the said Banks, and other Works, to be kept in Repair by the said Surveyor.

Persons aggrieved may appeal to the Quarter Sessions.

LXV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved, by any Thing done or omitted to be done by the said Commissioners in pursuance of this Act or the said Act secondly herein recited (other than and except such Orders and Determinations of the said Commissioners as are by this Act or the said Act secondly herein recited, directed to be final, binding, or conclusive, and except in Cases where an Issue at Law shall be tried as hereinbefore mentioned), then and in every such Case he, she, or they, may appeal to the General Quarter Sessions of the Peace which shall be holden for the said Division of *Holland*, in the said County of *Lincoln*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, or any of them, or to the Party or Parties concerned, Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and to award such Costs and Damages as to them in their Discretion shall seem reasonable, and 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 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 the Determination of the said Justices 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 His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants,

pellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

General saving.

LXVI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, his, her, and their Heirs, Successors, Executors and Administrators (except the several Persons to whom any Allotment or Allotments shall be made by virtue or in pursuance of this Act, for or in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under them, or in Remainder after them) all such Right, Title and Interest, as they, every or any of them could or ought to have had and enjoyed, of, in, to or out of the Marshes, Lands and Grounds hereby directed to be embanked, divided and inclosed, in case this Act had not passed.

Public Act.

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

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