ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 120.

An Act for embanking, incloſing, and draining Lands within the Pariſh of *Friſkney*, in the County of *Lincoln*. [27th *May* 1809.]

WHEREAS there are within the Pariſh of *Friſkney*, 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 will be of great Advantage to all the Parties intereſted therein, if the ſame Marſhes were embanked and incloſed, and Proviſion made for the future Support of the Banks thereof: And whereas there are in the ſaid Pariſh of *Friſkney* certain Moſs or Moor Grounds, Open Fields, Commonable Lands and Waſte Grounds: And whereas the King's moſt Excellent Majeſty, in Right of His Duchy of *Lancaſter*, claims to be Lord of the Manor of *Friſkney*, as Parcel of the Manor of *Wainfleet*, and as ſuch to be intereſted in the Soil of the Commonable Lands and Waſte Grounds within the ſaid Manor of *Friſkney*, and *Edward Greathed* Eſquire, is his Leſſee: And whereas the Reverend *Thomas Booth* Clerk, is Owner of the Impropriate Rectory of the ſaid Pariſh of *Friſkney*, and as ſuch entitled to all the Rectorial Tythes ariſing from all the Lands and Grounds within the ſaid Pariſh, and the ſaid *Thomas Booth* is alſo Patron of the Vicarage of *Friſkney* aforeſaid, and is the preſent Vicar thereof, and as ſuch is alſo entitled to the Vicarial Tythes ariſing

arising within the said Parish: And whereas Sir *James Winter Lake* Baronet, the said *Edward Greathed*, the Reverend *John Chapel Woodhouse*, Doctor in Divinity, the Reverend *Edward Shaw*, *Joseph Hunt*, *John Rashdall*, and others, are Owners and Proprietors of or interested in the said Marshes, Moss or Moor Grounds, Open Fields, Commonable Lands and Waste Grounds, and are also Owners and Proprietors of the ancient inclosed Lands in the Parish of *Friskney* aforesaid: And whereas an Act was passed in 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 of the several Proprietors in the said Open Fields, in the said Parish of *Friskney*, lie intermixed and dispersed, and are in their present State incapable of any considerable Improvement, and it would be of Advantage to all Parties concerned if the same, and the said Moss or Moor Grounds, Commonable Lands and Waste Grounds, were to be divided and inclosed, and specific Shares thereof allotted to the several Persons and Parties respectively interested therein; and it would be an additional Benefit to the Owners and Proprietors of the Lands and Grounds within the said Parish of *Friskney*, if proper Powers were given for the better and more effectually draining and improving the same: But the several Matters 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 Parliament assembled, and by the Authority of the same, That the said Sir *James Winter Lake*, *Edward Greathed*, *Thomas Booth*, *Edward Shaw*, the Reverend *Joseph Walls*, and the said *Joseph Hunt*, and *Thomas Hunt Oliver*, and their Successors, to be elected in manner herein-after mentioned, shall be and they are hereby appointed a Committee for the Purpose of embanking the said Salt Marshes, and for draining the same in manner herein-after directed, and for carrying so much of this Act into Execution as relates to such Embankment and Drainage, any Three of whom are hereby fully authorized and empowered to execute, do, and perform the same by Authority hereof, as fully and effectually to all Intents and Purposes as if all the Committee Men herein-before appointed were present, and executed, did and performed the same; and that when and as often as any of the Committee Men herein-before named, or to be appointed as herein-after mentioned shall die, decline or refuse to act, or become incapable of acting, then and in every such Case a new Committee Man shall be appointed in the place and stead of any of them so dying, declining or refusing to act, or becoming incapable of acting as aforesaid, by the Majority in Number of the several Persons interested in the said Marshes to be embanked and drained as aforesaid; and of the said Committee Men who shall be present at a Meeting to be appointed for that Purpose, in the same Manner as herein-after is mentioned with respect to the Choice of a new Commissioner; and that every new Committee Man, to be elected as aforesaid, shall have the same Powers and Authorities, by virtue of this Act, as the Committee Man in whose place he shall succeed and be appointed, was vested with; and that each and every of the said Committee Men shall be paid and allowed the Sum of Five Shillings only *per* Day for their Expences in their several Attendances as such Committee Men as aforesaid.

Committee Men appointed.

Three may act.

Election of new Committee Men.

Their Allowance.

II. And

Committee Men to take an Oath or Affirmation.

II. And be it further enacted, That no Person shall be capable of acting as a Committee Man (except it be in administering the Oath or Affirmation hereafter mentioned to any of the other Committee Men) until he shall have taken the Oath following; or, being one of the People called *Quakers*, made Affirmation; *videlicet*;

'I *A.B.* do swear [*or* being one of the People called *Quakers*, do solemnly affirm] That I will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform all and every the Powers and Authorities in the Execution whereof I shall at any Time act as a Committee Man appointed in and by an Act made in the Forty-ninth Year of the Reign of His Majesty King *George* the Third, intituled [*here set forth the Title of this Act.*] 'So help me GOD.'

Which Oath or Affirmation it shall and may be lawful to and for any one of the said Committee Men to administer, and he is hereby required to administer the same accordingly.

Appointment of Deputy Committee Man for Drainage.

III. And be it further enacted, That it shall and may be lawful to and for every such Committee Man by Writing under his Hand, from Time to Time and for such Time as he shall think fit, to nominate and appoint an Agent or Deputy to act in his Absence as a Committee Man, and every such Agent or Deputy shall and may, provided he takes the Oath of Office appointed by this Act, act as a Committee Man in such and the same manner, and as fully to all Intents and Purposes as such Committee Man might act and do if he was personally present: Provided always, that if such principal Committee Man shall be present and in the actual Exercise of his Office, the Power and Authority hereby given to such Agent or Deputy shall cease and be void.

A Bank to be made.

IV. And be it further enacted, That the said Committee shall and they are hereby authorized and required to direct and order the said Marshes to be embanked and inclosed from the Sea in an effectual Manner, under the Direction of an Engineer, whom they are hereby required to call in to their Assistance in the Execution of such Embankment and Drainage.

Freeboards.

V. And be it further enacted, That in all Cases where any Freeboard, Screed or Parcel of Marsh Land shall run into or be left on the outside of any adjoining Parish or Place, all such Freeboards, Screeds and Parcels of Marsh Land shall be and be considered as Part of the Marshes directed by this Act to be embanked and drained, and shall be under the Controul and within the Jurisdiction of the said Committee, and shall be embanked and drained by them in such and the same Manner, and under such and the same Rules, Regulations, Restrictions and Directions, as any other Marshes in the said Parish of *Friskney* may be embanked and drained under and by virtue of this Act.

Committee may erect Works to drain the Marshes, &c.

VI. And be it further enacted, That the said Committee shall make or cause to be made all proper Drains, Sewers, Sluices, Tunnels or other Works, on, or in, through, and out of or from the said Marshes hereby directed to be embanked, for the preserving and draining the same, in such Manner as to the said Committee shall seem necessary and proper, making reasonable Satisfaction to all and every Person and Persons who may sustain any

Injury or Damage thereby, and ſhall keep the ſaid Bank, and the ſaid Drains, Sewers, Sluices, Tunnels and other Works, herein-before directed to be made, in good and ſufficient Repair, until the Commiſſioner herein-after appointed ſhall have made his Award as herein-after directed, and until a Surveyor ſhall be appointed as herein-after is mentioned, for the Purpoſe of making ſuch Repairs.

No Horſes, &c. to depaſture on the Bank or Foreland for Seven Years.

VII. And be it further enacted, That for the better Security and Preſervation of the ſaid Bank, after the ſame ſhall have been made and raiſed as aforeſaid, no Perſon or Perſons ſhall permit any Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow or other great Cattle, to feed or depaſture along, in, upon or over the ſame or any Part thereof, or upon the Foreland of the ſaid Bank, for the Term of Seven Years, to commence from the Time the Commiſſioner herein-after named ſhall make and execute his Award as herein-after mentioned, under a Penalty not exceeding Five Shillings for every ſuch Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow or other great Cattle found thereon, to be paid to the Perſon or Perſons who ſhall take and impound the ſame, which ſaid Penalty if not paid on Demand, ſhall be levied and recovered in the ſame Manner as any other Penalty under this Act is authorized to be levied and recovered; and that it ſhall and may be lawful to and for any Perſon or Perſons having Right or Intereſt in the ſaid Marſhes hereby directed to be embanked, or any Part thereof, at any Time or Times during the ſaid Term, to take and impound any ſuch Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow or great Cattle, as ſhall be found upon the ſaid Bank and Foreland or any Part thereof.

Horſes, &c. to be impounded.

Committee to lay a Tax, &c.

VIII. And be it further enacted, That it ſhall be lawful for the ſaid Committee, and they are hereby authorized and required from Time to Time, until the ſaid intended Embankment and Drainage of the ſaid Marſhes and all the Works neceſſary or proper for that Purpoſe ſhall be perfected, to aſſeſs, tax and charge all and ſingular the ſaid Marſhes, and the Proprietors thereof, with ſuch Sum and Sums of Money as they the ſaid Committee ſhall from Time to Time find neceſſary and requiſite for defraying One-third Part of the Charges and Expences incident to and attending the obtaining and paſſing of this Act, and alſo for defraying the Expences of carrying this Act into Execution, ſo far as the ſame relates to the Embankment and Drainage of the ſaid Marſhes, and for enabling them the ſaid Committee to complete the Works relating thereto, and to carry into Execution the ſeveral Powers hereby given to them as aforeſaid, (ſave and except Two-ſeventeenth Parts of the Expences to be incurred in the Formation and Completion of ſuch Embankment and Drainage of the ſaid Marſhes, and of all neceſſary Works relating thereto, which Two-ſeventeenth Parts are to be paid by the ſaid *Thomas Booth*, or the Owner of the ſaid Impropriate Rectory and the Vicar of the ſaid Vicarage for the Time being, as herein-after mentioned); and to aſſeſs, rate and charge every Proprietor of the ſaid Marſhes, by an equal Acre Rate, with ſuch Share and Part of the ſame Expences, according and in Proportion to the Number of Acres which each ſuch Proprietor hath or is reputed to have of and in the ſaid Marſhes; and the Share, Part, and Proportion of ſuch Sum which ſhall be ſo charged and aſſeſſed upon every ſuch Proprietor in Manner aforeſaid ſhall be paid to ſuch Perſon or Perſons, and at ſuch Time and Times;

Times as they the ſaid Committee ſhall order, direct, or appoint, they the ſaid Committee cauſing Twenty-one Days Notice in Writing under their Hands of ſuch Tax or Aſſeſſment, and the Time and Times ſo to be ordered, directed and appointed for Payment thereof, to be given to or left at the uſual or laſt known Place of Abode of every ſuch Proprietor, or the Tenants or Occupiers of the ſaid Marſhes; and in caſe any ſuch Proprietor ſhall refuſe or neglect to pay his, her, or their Part, Share or Proportion of ſuch Sum or Sums of Money ſo to be taxed, charged and aſſeſſed upon him, her, or them as aforeſaid, on the Day and at the Time ſo to be ordered, directed, and appointed for Payment thereof, after ſuch Notice ſhall have been given as aforeſaid, it ſhall be lawful for the ſaid Committee to authorize and empower any Perſon or Perſons, by Warrant under the Hands and Seals of the ſaid Committee, to levy the Sum and Sums of Money ſo taxed, charged and aſſeſſed, by Diſtreſs and Sale of any Goods and Chattels of the Perſon or Perſons making ſuch Default, his, her, or their Huſbands, Guardians, Truſtees, 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 Charge 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 and Sums of Money from the Time the ſame ſhall be directed to be paid by ſuch Committee as aforeſaid, or otherwiſe to enter into and upon any of the Lands and Grounds within the ſaid Pariſh of *Friſkney*, of or belonging to the Perſon or Perſons ſo making Default, and to receive and take the Rents and Profits thereof, until thereby or therewith the Sum or Sums of Money ſo to be taxed, charged, or aſſeſſed upon him, her, or them, with Intereſt as aforeſaid, and alſo all Coſts, Charges and Expences occaſioned by or attending ſuch Diſtreſs, Entry, and Receipt of ſuch Rents and Profits as aforeſaid ſhall be fully paid and ſatisfied.

A Proportion of the Expences of the Act to be paid by the Impropriator and Vicar.

IX. And be it further enacted, That it ſhall and may be lawful for the ſaid Committee, and they are hereby authorized and required, until the ſaid intended Embankment or Drainage of the ſaid Marſhes, and all the Works neceſſary and proper for that Purpoſe ſhall be perfected, from Time to Time to aſſeſs, tax and charge the ſaid *Thomas Booth*, his Heirs, Succeſſors, or Aſſigns, Owners of the ſaid Impropriate Rectory, and the Vicar of the ſaid Vicarage of *Friſkney* aforeſaid for the Time being, with ſuch Sum and Sums of Money, and in ſuch Proportion to their reſpective Intereſts therein, as in the Judgement of the ſaid Committee ſhall be neceſſary and requiſite for defraying Two-ſeventeenth Parts of the Expences to be incurred in the Formation and Completion of ſuch Embankment and Drainage of the ſaid Marſhes, and of all neceſſary Works relating thereto, which Sum and Sums ſhall be advanced from Time to Time and in the Proportions after-mentioned, and may be recovered in ſuch and the ſame Manner as other Taxes, Charges and Aſſeſſments to be made by virtue of this Act ſhall be recoverable: Provided nevertheleſs, that the Sum and Sums of Money which ſhall from Time to Time be taxed, charged and aſſeſſed upon the ſaid *Thomas Booth*, his Heirs, Succeſſors, or Aſſigns, as Owners of the ſaid Impropriate Rectory, and the Vicar of the ſaid Vicarage as aforeſaid, ſhall be from Time to Time advanced and paid by him and

them, after the Rate and in the Proportion of Ten Pounds *per Centum* upon the Sums advanced and paid by the Proprietors of the ſaid Marſhes, until the whole Amount of ſuch Two-ſeventeenth Parts ſhall be paid and advanced.

Committee to account.

X. And be it further enacted, That the ſaid Committee ſhall and they are hereby required to keep or cauſe to be kept a true and juſt Account in Writing of all and every Sum and Sums of Money to be by them received, paid, laid out and expended for the Purpoſes aforeſaid, together with the reſpective Times of receiving, paying, laying out and expending ſuch Sum and Sums of Money reſpectively, and ſhall permit any of the Perſons intereſted in the ſaid Marſhes to be embanked and drained, to inſpect ſuch Account, with the Vouchers for all the Money therein admitted to have been received or charged to have been paid by them or by their Orders.

Entries of Proceedings good Evidence.

XI. And be it further enacted, That fair and regular Entries ſhall be made in a Book or Books to be provided for that Purpoſe, of all the Acts, Orders, Rules, Regulations, Directions and Proceedings of the ſaid Committee, relative to the Execution of this Act, and of the Names of the Committee who ſhall be preſent at the reſpective Meetings, and the ſame ſhall be ſigned with the Name of the Clerk to the ſaid Committee; and all ſuch Entries being ſo ſigned, ſhall be deemed Originals, and ſhall be allowed to be read in Evidence in all Courts whatſoever in all Caſes, Suits and Actions, touching any Thing done in purſuance of this Act reſpecting the ſaid Embankment and Drainage.

Appointment of Clerk.

XII. And be it further enacted, That the ſaid Committee 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, and the ſaid Commiſſioner acting under this Act in carrying this Act into Execution, and ſuch Clerk or Clerks from Time to Time to remove, and nominate and appoint ſome other fit and proper Perſon or Perſons to ſucceed him or them in ſuch Office.

Actions to be in the Name of the Clerk.

XIII. And be it further enacted, That the ſaid Committee ſhall and may ſue and be ſued in the Name of their Clerk, and that no Action that may be brought or commenced by or againſt the ſaid Committee or any of them, by virtue or on Account of this Act, in the Name of their Clerk, ſhall abate or be diſcontinued by the Death or Removal of ſuch Clerk, or by the Act of ſuch Clerk without the Conſent of the ſaid Committee; but the Clerk for the Time being to the ſaid Committee ſhall always be deemed Plaintiff or Defendant in ſuch Action (as the Caſe may be) except in ſuch Action or Actions as ſhall be proſecuted between the ſaid Committee and their Clerk for the Time being, in which any one of the ſaid Committee ſhall or may be made Plaintiff or Defendant (as the Caſe ſhall be): Provided always, that every ſuch Clerk or Committee Man in whoſe Name any Action or Suit ſhall be commenced, proſecuted, or defended, in purſuance of this Act, ſhall always be reimburſed and paid out of the Monies to ariſe by virtue of this Act, all ſuch Coſts and Charges as by the Event of any ſuch Proceedings he ſhall be put to or become

chargeable with by reaſon of his being ſo made Plaintiff or Defendant therein.

Works to be under the Inſpection of a Surveyor.

XIV. 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, 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 neceſſary ſhall be repaired and 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 drained, or their known Agents or Attornies, who ſhall be preſent at a Meeting to be held in the ſaid Pariſh of *Friſkney* on the *Thurſday* in *Eaſter* Week in every Year, or oftener if required, as herein-after is mentioned; or in caſe there ſhall be an Equality in the Votes of the Proprietors or their known Agents or Attornies then preſent, then the Proprietor preſent at ſuch Meeting, who ſhall be the Owner of the greater Number of Acres of the ſaid Marſhes in the ſaid Pariſh, hereby directed to be embanked and drained, ſhall have the caſting Vote; and that the Surveyor who ſhall be ſo appointed as aforeſaid, ſhall be allowed and paid ſuch yearly or other Salary or Wages for his Trouble as ſhall be thought reaſonable at the Time of his Appointment to his ſaid Office; and in caſe it ſhall happen that no new or other Surveyor ſhall be appointed at ſuch Annual Meeting as aforeſaid, then the former Surveyor ſhall continue in his ſaid Office, at the ſame Salary and Wages 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 *Friſkney* aforeſaid, immediately after Divine Service, or on the outer Door of the ſaid Church, upon ſome *Sunday* at leaſt Three Weeks before the Time of holding ſuch Annual Meeting.

New Surveyors to be appointed on Vacancies.

XV. 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 ſaid Proprietors for the Time being of the ſaid Marſhes hereby directed to be embanked and drained, or their known Agents or Attornies, to call a Meeting of the ſeveral Proprietors of the ſaid Marſhes, (of which Meeting public Notice ſhall be given in the Pariſh Church of *Friſkney* aforeſaid, immediately after Divine Service, on ſome *Sunday* at leaſt Fourteen Days previous to ſuch Meeting), in order to chooſe a new Surveyor for the then Reſidue of the Year, and until the next Annual Meeting of the Proprietors of the ſaid Marſhes, and to remove the old Surveyor (in caſe of his becoming incapable of executing or of his miſconducting himſelf in his ſaid Office), and the Surveyor who ſhall be then appointed ſhall be paid a Proportion of the Salary allowed to the old Surveyor, according to the Time which ſhall be then to come of the Year; and the Salary of the old Surveyor ſhall ceaſe at the Time of his Death, or of his being removed from his Office as aforeſaid.

Surveyor may erect new Works.

XVI. And be it further enacted, That if after the ſaid Embankment and Drainage of the ſaid Marſhes ſhall have been completed, under the Direction

Direction of the ſaid Committee, it ſhall be neceſſary to make any Alteration in the Banks, Drains, Sluices or other Works ſo to be made upon or in the ſaid Marſhes, or to make any new Bank or Banks, Drain or Drains, 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 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 of the Proprietors for the Time being of the ſaid Marſhes, or their known Agents or Attornies, who ſhall be aſſembled at a Meeting to be held for the Purpoſes of determining upon ſuch Alterations or new Works; 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 a new Surveyor, and removing an old one, except that Notice of ſuch Meeting ſhall be given for Three ſucceſſive *Sundays* previous to ſuch Meeting, inſtead of being only once given; and the Expences of making ſuch Alterations or 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 for repairing the ſaid Banks, Drains and other Works, to be made by the ſaid Committee; and in caſe any ſuch Alterations or new Works 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 and other Works, to be made by the ſaid Committee.

And may levy Rates.

XVII. And be it further enacted, That for the better enabling the ſaid Surveyor for the Time being 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 the Surveyor for the Time being, when and as often as Occaſion ſhall require, to make an equal Acre Rate or Aſſeſſment upon all and every the Proprietors of the ſaid Marſhes hereby intended to be embanked and drained, all which Rates or Aſſeſſments having been allowed and ſigned by a Majority in Value of the Perſons intereſted in ſuch Marſhes, or their known Agents or Attornies for that Purpoſe ſpecially appointed, who may be preſent at a Meeting to be called in the ſame Manner as herein-before is mentioned with reſpect to the Choice of a new Commiſſioner by the Proprietors, for the Purpoſe of getting ſuch Rate or Aſſeſſment conſidered and allowed; ſuch Majority not being leſs than Three in Number, ſhall be collected and received by the Surveyor for the Time being; and in caſe any of the Proprietors for the Time being, ſhall refuſe or neglect to pay ſuch Rate or Aſſeſſment immediately after the ſame ſhall be ſo made, ſigned and allowed, (being firſt lawfully demanded of ſuch Proprietors reſpectively, or their Leſſees or Tenants of the 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 Parts of *Lindſey*, in the ſaid County of *Lincoln*, to make Enquiry of ſuch Default, by ſummoning to appear before ſuch Juſtice, ſuch Proprietor or Leſſee or Tenant, of whom ſuch Rate or Aſſeſſment ſhall have been demanded, (and for this Purpoſe Notice in Writing left at the uſual Reſidence of the Perſon intended to be ſummoned or of his Leſſee or Tenant, ſhall be a good Summons), and if ſuch Defaulter ſhall be thereof convicted, either by his own Confeſſion, or upon the Oath of the Surveyor for the Time being, or any other competent and credible Witneſs (which Oath the ſaid Juſtice is hereby empowered to adminiſter), or ſhall not appear purſuant to ſuch Summons, the

To be ſigned by Three Proprietors.

ſaid

ſaid Juſtice ſhall and is hereby required to levy the ſaid Rate or Aſſeſſment, by Diſtreſs and Sale of the Goods and Chattels 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 Goods and Chattels 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 the ſaid Juſtice, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Goods and Chattels.

Lands untenanted, to remain a Security for Taxes.

XVIII. Provided always, and be it further enacted and declared, That in caſe any Part of the ſaid Marſhes, to be embanked and drained as aforeſaid, ſhall at any Time hereafer be untenanted or unoccupied, ſo that no ſufficient Diſtreſs can be made for levying the ſaid Rates and Taxes, then the Marſhes chargeable therewith ſhall always remain a Security for Payment thereof, and all Goods and Chattels 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 and Taxes, 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 ſaid Marſhes or any Part thereof, ſhall advance and pay ſuch Rate or Aſſeſſment, 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 be or become payable for the Marſhes in reſpect whereof ſuch Payments ſhall have been made, and that a Tender to the Proprietor or Proprietors of ſuch Marſhes, or to their known Agents or Attornies, of the Receipt or Receipts of the Surveyor appointed as aforeſaid, for ſuch Payment or Payments made by ſuch Leſſee or Leſſees, Tenant or Tenants, ſhall be conſidered, deemed and taken in part Payment of ſuch Rent and Rents reſpectively, or ſo much thereof for which ſuch Receipt or Receipts ſhall be ſo given.

Power for Tenants for Life, &c. to borrow Money.

XIX. And be it further enacted, That it ſhall and may be lawful to and for the Huſbands, Guardians, Truſtees, or Attornies of, or Perſons acting as Guardians, Truſtees or Attornies for the ſaid Proprietors of the ſaid Marſhes, being under Coverture, Minors, Lunatics, or beyond the Seas, or otherwiſe incapable to act for themſelves, and to and for every of them for the Time being, and to and for any of the ſaid Proprietors being Tenants in Tail or for Life only, and to and for every of them reſpectively for the Time being, to charge the ſaid Marſhes which ſhall be embanked and drained under and by virtue of this Act, with ſuch Sum and Sums of Money as they ſhall be reſpectively charged with and required to pay by the ſaid Committee or by the ſaid Surveyor for defraying the Charges and Expences of paſſing this Act, and carrying the ſame into Execution, and for embanking and draining the ſaid Marſhes, and for ſupporting and repairing the ſaid Banks, and for ſecuring the Repayment of all and every ſuch Sum and Sums of Money, with Intereſt, to grant, mortgage, leaſe or demiſe, or otherwiſe ſubject the ſaid Lands herein-before directed to be embanked and drained, unto ſuch Perſon or Perſons as ſhall advance and

lend such Sum and Sums of Money respectively, for any Term or Number of Years; so as every such Grant, Mortgage, Lease or Demise, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and so as every such Grant, Mortgage, Lease or Demise, do also contain a Proviso, that the Person or Persons entitled in Remainder or Reversion to any such Lands, shall not be liable, upon his, her, or their becoming possessed thereof, to the Payment of any further or larger Arrear of Interest than for Six Calendar Months preceding the Time that his, her or their Title to such Possession shall have commenced.

Tenants in Tail, &c. may charge Money advanced by them.

XX. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees or Attornies, or any Tenant or Tenants in Tail or for Life of any of the said Marshes, by any Deed or Deeds in Writing, or by his, her or their last Will and Testament duly executed according to Law, to charge such Marshes so to be embanked and drained as aforesaid, as shall not have been so mortgaged, with such Sum or Sums of Money, as shall be appointed by the said Committee or Surveyor to be paid, and which, by any Writing or Writings under the Hand of the said Committee or Surveyor, shall be certified to have been accordingly paid by such respective Tenant or Tenants in Tail or for Life, or for his, her or their Share or Proportion of the Costs, Charges and Expences of the said Embankment and Drainage, which Sum and Sums of Money so to be charged as aforesaid, shall be payable within One Year next after the Decease of every such Tenant in Tail or for Life, with Interest after the Rate of Five Pounds *per Centum per Annum*, to be computed from his, her or their respective Deceases, unto such Person or Persons as such Tenant or Tenants in Tail or for Life shall by such Deeds or Wills and Testaments respectively direct or appoint; and in Default of such Direction and Appointment, to his, her or their respective Executors or Administrators.

All such Charges shall be valid.

XXI. And be it further enacted, That every such Grant, Mortgage, Lease or Demise, and every such Charge as aforesaid, to be made of or upon any of the said Marshes, shall be good, valid and effectual in the Law for the Purposes hereby intended.

Surveyor to account.

XXII. And be it further enacted, That every Surveyor so to be appointed as aforesaid, shall annually at the said Meeting to be held in the said Parish of *Friskney*, or oftener if required by Six at least of the said Proprietors, or their known Agents or Attornies, render and deliver to the Persons assembled at the said Annual Meeting, or at some 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, of all and every Sum or Sums of Money had and received, paid, laid out and expended by him for them in the Execution of the said Office, together with proper Vouchers for all Monies which shall have been so paid up to the Time of rendering such Account, and shall verify such Account upon Oath before a Justice of the Peace acting for the said Parts of *Lindsey*, in the said County of *Lincoln*, if thereunto required by a Majority of the said Proprietors, or their known Agents or Attornies, who shall audit such Account, and shall pay to the succeeding Surveyor,

Surveyor, or to the Surveyor for the Time being, or unto ſuch Perſon or Perſons as the Majority of the Proprietors, or their known Agents or Attornies, at ſuch Meeting as aforeſaid, by Writing under their Hands ſhall authorize to receive the ſame, all ſuch Money as ſhall upon the balancing of the ſaid Account be adjudged by them or the major Part of them then preſent, to be due from ſuch Surveyor, and deliver up all the Books, Writings, and Vouchers reſpecting the ſaid Office to the ſaid Proprietors, or their known Agents or Attornies, or to ſuch other Perſon or Perſons as ſhall be by them or the major Part of them authorized to receive and take the ſame; and in caſe any Surveyor ſhall refuſe or neglect to render, give in and make ſuch Account and Payment as aforeſaid (verified in the Manner herein-before mentioned), or ſhall refuſe or neglect to deliver up all ſuch Books, Writings and Vouchers as aforeſaid, then and in any of the ſaid Caſes it ſhall and may be lawful for any Juſtice of the Peace for the ſaid Parts of *Lindſey* to make Enquiry of ſuch Default in a ſummary Way; and if any ſuch Surveyor ſhall thereof be convicted either by the Confeſſion of the Party, or upon the Teſtimony of any Witneſs upon Oath, who ſhall be competent to that Purpoſe, (which Oath the ſaid Juſtice is hereby empowered to adminiſter, and alſo to adminiſter Oaths to the Witneſſes on the Part of the Perſons who may be ſo ſummoned), 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 *Lindſey*, 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, Writings and Vouchers relating to the ſaid Surveyorſhip in his or their Cuſtody in Manner aforeſaid, but no ſuch Surveyor ſhall be detained in Priſon for any longer Space of Time than Six Calendar Months.

Surveyor to give Security.

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

Ditches to be ſcoured out.

XXIV. And be it further enacted, That all Owners and Occupiers of the Marſhes to be embanked and drained as aforeſaid, and alſo of the embanked Marſhes within the ſaid Pariſh of *Friſkney*, ſhall from Time to Time make and keep their Boundary or Diviſion Ditches or Drains at leaſt Four Feet wide at the Top, and Three Feet deep perpendicular, and ſhall from Time to Time cauſe the ſame to be roaded and ſcoured, and Bridges and Tunnels to be laid therein where neceſſary; and if any Perſon ſhall refuſe or neglect to do the ſame for the Space of Fourteen Days after Notice given by the Surveyor in Writing, and ſigned by Three or more Proprietors or their known Agents or Attornies, at ſome of their Meetings to be holden for the Purpoſes of this Act, it ſhall and may be lawful to and for any Three or more of the ſaid Proprietors or their known Agents or Attornies, to cauſe and order the ſame to be done, and by Warrant under their Hands to cauſe the Charges attending the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Offender, returning the Overplus (if any) when demanded, to the Perſon or Perſons whoſe Goods and Chattels ſhall be ſo diſtrained and ſold.

XXV. And

Appointment of Commiſſioner.

XXV. And be it further enacted, That *Anthony Bower*, of the City of *Lincoln*, Gentleman, and his Succeſſor to be elected in Manner herein-after mentioned, ſhall be and he is hereby appointed Commiſſioner for ſetting out, dividing, allotting and incloſing all the ſaid Moſs or Moor Grounds, Open Fields, Commonable Lands and Waſte Grounds, 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 recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, as are not controuled by or repugnant to any of the Clauſes, Proviſions or Regulations contained in this Act; and that the Notices required to be given of ſetting out public and private Roads, and of reading and executing the Award of the ſaid Commiſſioner, and all other Notices by the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, or this Act, required to be given in ſome public Newſpaper, 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*.

Notice to be given.

Appointment of new Commiſſioner.

XXVI. And be it further enacted, That if the ſaid *Anthony Bower*, or any other Commiſſioner to be appointed in Manner herein-after mentioned, ſhall, before the Execution of all the Powers and Authorities hereby in him veſted, die, decline or refuſe to act, or become incapable of acting, it ſhall be lawful for the Majority in Value of the Proprietors and Perſons intereſted in the Lands and Grounds directed by this Act to be divided and incloſed, or their known Agents or Attornies, who ſhall be preſent at a public Meeting to be held for that Purpoſe in the Pariſh Church of *Friſkney* aforeſaid, in purſuance of a Notice to be given by Writing to be affixed on the outer Door of the ſaid Church, 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 *Anthony Bower*, ſo dying, 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 ſhall die, decline, or refuſe to act or become incapable of acting; 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.

Allowance to Commiſſioner to be ſettled at Meeting of the Proprietors.

XXVII. And be it further enacted, That out of the Money which ſhall be raiſed by the Authority of this Act, there ſhall be paid to the Commiſſioner appointed by or in purſuance of this Act, for all his Trouble and for the Expences which he ſhall incur in ſurveying, admeaſuring, planning and valuing the Moſs or Moor Grounds, Open Fields, Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed, and all other the Lands and Grounds within the ſaid Pariſh of *Friſkney*, and of carrying the Directions and Proviſions of this Act into Execution, not otherwiſe directed or provided for, ſuch Sum and Sums of Money as ſhall be ſettled and agreed on by and between the ſaid Commiſſioner and the Majority in Value of the Proprietors and Perſons intereſted in the ſaid Moſs or Moor Grounds, Open Fields, Commonable Lands and Waſte Grounds directed by this Act to be divided and incloſed, or their known Agents or Attornies, who ſhall be preſent at a public Meeting

Meeting to be held for that Purpoſe, within Two Calendar Months after the paſſing of this Act, of which Ten Days Notice at the leaſt ſhall be given in the *Lincoln, Rutland and Stamford Mercury*, or in ſome other Newſpaper uſually circulated in the Neighbourhood of *Friſkney* aforeſaid.

Commiſſioner, etc. to pay their own Expences.

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

Commiſſioner to give Notice of Sitting, etc.

XXIX. And be it further enacted, That the ſaid Commiſſioner ſhall cauſe Notice to be given in the Pariſh Church of *Friſkney* aforeſaid, on ſome *Sunday* immediately after Divine Service, or otherwiſe in Writing to be affixed upon the outer Door of the ſaid Church, of the Time and Place of his Firſt and every other Sitting for the Execution of this Act, at leaſt Seven Days before any ſuch Sitting ſhall be held (Sittings by Adjournment only excepted), and that the ſaid Commiſſioner may adjourn any ſuch Sitting from Time to Time as he ſhall ſee occaſion, for the further Execution of this Act; and in caſe the ſaid Commiſſioner ſhall not appear at ſuch Sitting, then the Clerk or Clerks to the ſaid Commiſſioner ſhall and may adjourn the ſaid Sitting to and appoint the ſaid Commiſſioner to ſit at the Place where the laſt Sitting was appointed to be holden, on that Day Three Weeks next after the Day on which ſuch Sitting 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 Commiſſioner.

Place of Sitting.

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

Commiſſioner to determine Differences.

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

Power to award Coſts.

XXXII. And be it further enacted, That in caſe the ſaid Commiſſioner ſhall, upon the Hearing and Determination of any Claim or Claims, or Objection or Objections to be delivered to him in purſuance of this Act or the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, ſee Cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby empowered on Application made to him for that Purpoſe, to ſettle and award ſuch Coſts and Charges as he ſhall think reaſonable to be paid to the Party in whoſe Favour any Determination of the ſaid Commiſſioner ſhall be made, by the Perſon or Perſons whoſe Claim or Claims, or Objection or Objections, ſhall be thereby diſallowed or overruled; 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 Commiſſioner, and he is hereby authorized and required, by Warrant under his Hand and Seal 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.

XXXIII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioner touching or concerning any Claim or Claims of Rights of Common, or other Rights or Intereſts in, over, or upon the ſaid Moſs or Moor Grounds, Open Fields, 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, her or their known Agent or Attorney, or under their Common Seal, reſpectively ſignify the ſame to the ſaid Commiſſioner within Two Calendar Months next after any ſuch Determination ſhall have been made, and ſignified by Writing under the Hand of the ſaid Commiſſioner to the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, againſt whom the ſame ſhall have been ſo made, or to his, her or their known Agent or Attorney, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politic, Corporate or Collegiate, 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, Corporate or Collegiate, in whoſe Favour any Determination ſhall have been ſo made, or againſt the ſaid Commiſſioner, 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 Commiſſioner 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 that after ſuch Verdict ſhall have been given, and final Judgement obtained thereon, the ſaid Commiſſioner ſhall and he is 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 Commiſ-

ſioner to retain or pay all ſuch Coſts, Charges and Expences, as he ſhall incur, or be put unto, or which ſhall be recovered againſt him in or by reaſon or in conſequence of any ſuch Action or Actions, out of any Monies which ſhall come to his Hands for the Purpoſes of this Act; provided that all ſuch Determinations of the ſaid Commiſſioner as ſhall not be objected to by ſuch Notice to be given to the ſaid Commiſſioner 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.

If Parties die, Proceedings not to abate.

XXXIV. And be it further enacted, That if the Parties in any Action to be brought in purſuance of this Act or the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, ſhall die pending the a me, ſuch Action ſhall not abate by reaſon thereof, but ſhall be proceeded in as if no ſuch Event had happened.

Proviſion in Caſes of Death of Parties before Actions brought.

XXXV. 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, Corporate or Collegiate, 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 of the ſaid Commiſſioner with Proceſs for commencing ſuch Action or Actions, in the ſame Manner as the Party or Parties might have been ſerved therewith if 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 as aforeſaid, to appear and defend ſuch Action or Actions in the Name or Names of the Perſon or Perſons ſo dead, 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.

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

Commiſſioner may alter Roads through old Incloſures.

XXXVII. And be it further enacted, That in caſe it ſhall appear to the ſaid Commiſſioner that there are any public Highways, Bridle Roads or Footways in, through, over or on the Sides of any of the ſaid old incloſed Lands or other Lands within the ſaid Pariſh of *Friſkney*, which may in the Judgement of the ſaid Commiſſioner be diverted and turned, without In-

convenience

convenience 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, it ſhall be lawful for the ſaid Commiſſioner (with the Concurrence and Order of Two Juſtices of the Peace acting in and for the Parts of *Lindſey*, in the ſaid County of *Lincoln*, ſubject to Appeal as in this or the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty is mentioned) in and by his 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 Commiſſioner 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 old 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.

Commiſſioner to make Drains.

XXXVIII. And be it further enacted, That the ſaid Commiſſioner ſhall and may ſcour out, deepen, widen, amend and repair all ſuch ancient Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches and Tunnels, in the ſaid Pariſh of *Friſkney*; and alſo ſhall and may make or cauſe to be made ſuch new Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches and Tunnels, and other Requiſites, as well in, through, over and acroſs the Lands and Grounds hereby directed to be divided and incloſed, as alſo in, over and through any ancient Incloſures, or other Lands or Grounds within the ſaid Pariſh of *Friſkney*, as ſhall be neceſſary and proper (making reaſonable Satisfaction to all and every Perſon and Perſons who may ſuſtain any Damage thereby), of ſuch Dimenſions, and in ſuch Directions reſpectively, as the ſaid Commiſſioner ſhall think proper; and the ſaid Commiſſioner ſhall and may, and he is hereby directed and required, in and by any Writing or Writings under his Hand, or in and by his 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: Provided always, that nothing herein contained ſhall extend or be conſtrued to extend to authorize or empower the ſaid Commiſſioner, or any Perſon or Perſons to whom any Part or Parts of the Lands and Grounds hereby directed to be divided and incloſed 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 of 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

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*, otherwise than for the Purpose of making and executing such Works of Drainage as may be necessary for conveying the Waters from certain Low Lands and Grounds in the Parish of *Friskney* aforesaid, lying on the West Side of the *Seadyke Street*, and called the *Engine Lands*, and also from the Lands and Grounds hereby directed to be divided and inclosed into a certain Drain called *Hobhole Drain*, and which said Works the Commissioner for executing this Act is hereby authorized and empowered to make and execute, subject nevertheless to such and the same Rules, Orders, Regulations and Exemptions as the same Lands and Grounds would have been subject and liable to, in case the Owners or Proprietors thereof had taken the Benefit of the Provision made or intended to be made for those Lands and Grounds in and by the same Drainage Acts of the Forty-first and Forty-third Years of the Reign of His present Majesty, within the Times by the same Acts respectively for that Purpose limited.

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

XXXIX. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out, allot and award unto and for the Surveyors of the Highways of the said Parish of *Friskney* for the Time being, one or more Plot or Plots of the Lands and Grounds hereby directed to be divided and inclosed, as he 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 and 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 got for the same, and to apply the Rents and Profits thereof in repairing the said public Highways in the said Parish of *Friskney*, 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; and if any of the Surveyors of the said Highways shall at any Time or Times hereafter neglect or refuse to account for and apply the said Rents for the Herbage or Produce growing or renewing from the said Plot or Plots of Land or Ground to be allotted to the said Surveyors as aforesaid, it shall be lawful for any one of His Majesty's Justices of the Peace acting in and for the said Parts of *Lindsey*, in the County of *Lincoln*, to cause the said Rents, and Arrears of Rent, and the Costs and Charges attending the Recovery

thereof, to be levied by Diſtreſs and Sale of the Goods and Chattels o ſuch Surveyor or Surveyors ſo neglecting or refuſing to account for ſuch Rents as aforeſaid.

Allotments of Moſs or Moor Grounds, Open Fields, etc

XL. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, as ſoon as conveniently may be after the Plans, Maps, or Surveys directed to be made by the ſaid firſt herein-recited Act of the Forty-firſt Year of His preſent Majeſty ſhall have been laid before him, to ſet out, divide and allot the ſaid Moſs or Moor Grounds, Open Fields, Commonable Lands and Waſte Grounds, hereby directed to he divided and incloſed, in Manner following; that is to ſay: In the firſt Place (after ſetting out ſuch publick and private Roads, Ways and Drains, as are directed to be ſet out by this Act, or the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty), he ſhall ſet out, divide and allot the ſaid Open Fields, unto and amongſt the ſeveral Perſons, Bodies Politick, Corporate or Collegiate, 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 and reſpective Shares, Rights, Intereſts and Property, to be ſettled and aſcertained by ſuch Ways and Means as to the ſaid Commiſſioner ſhall ſeem moſt proper, expedient and neceſſary, in that Behalf.

Allotment for Manerial Rights.

XLI. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby required to ſet out and allot unto His ſaid Majeſty, His Heirs and Succeſſors, in Right of His ſaid Duchy, ſuch Part of the Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed, as in the Judgement of the ſaid Commiſſioner ſhall be equal in value to One-thirtieth Part of all ſuch Commonable Lands and Waſte Grounds, in lieu, bar and Satisfaction of and for His Majeſty's Manerial Rights in the Soil of the Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed.

Allotment of Reſidue.

XLII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required (after the ſeveral Allotments hereinbefore and by the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty directed, ſhall have been made) to ſet out, allot and divide the Reſidue and Remainder of the ſaid Moſs or Moor Grounds, Commonable Lands and Waſte Grounds hereby directed to be 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 *Friſkney*, having Right of Common on the ſaid Moſs or Moor Grounds, Commonable Lands and Waſte Grounds, and of Toftſteads whereon 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 thereof, unto and amongſt the Owners and Proprietors of Lands and Grounds in the ſaid Pariſh of *Friſkney*, who are entitled to ſuch

such Common Right Houses as aforesaid, in Proportion and according to the Value of their respective Lands.

For defraying the Expences of Act, etc.

XLIII. And be it further enacted, That the Costs, Charges and Expences incident to and attending the obtaining and passing of this Act, and of carrying the same into Execution (except such Parts or Proportions of the said Costs, Charges and Expences, as are by this Act otherwise provided for), shall be borne, defrayed, and paid by the several Persons interested in the said Moss or Moor Grounds, Open Fields, Commonable Lands and Waste Grounds, in such Shares and Proportions, within such Time, and to such Person or Persons as the said Commissioner shall direct, nominate and appoint; and in case any Person or Persons made subject to the Payment of any of the Charges and Expences not herein-before otherwise provided for, shall refuse or neglect to pay his, her, or their 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 first herein-recited Act of the Forty-first Year of His present Majesty.

Land to be sold to defray the Expences of the King.

XLIV. And be it further enacted, That it shall and may be lawful for the said Commissioner, and he is hereby empowered to make a Deduction in Land from the Allotment or Allotments to be made by virtue of this Act to His said Majesty, His Heirs and Successors, of so much of the said Allotment or Allotments as shall be sufficient in the Judgement of the said Commissioner to raise by Sale thereof a Sum of Money adequate to the Share or Proportion of His said Majesty, of the Costs, Charges and Expences attending the passing and executing this Act, and of making the said Roads, and of ring-fencing and subdividing the Residue of the said Allotment or Allotments to His said Majesty, by virtue of this Act, and such other Expences as shall attend the same; and that it shall be lawful for the Chancellor and Council of the said Duchy for the Time being, in Court of Revenue for the said Duchy, to make Orders for the Sale and Disposal of such Part or Parts of the said Allotment or Allotments so to be deducted as aforesaid, by public Auction or private Contract, and upon Payment of the Purchase Money into the Hands of the Receiver General of the Revenues of the said Duchy for the Time being, it shall and may be lawful to and for the said Chancellor of the said Duchy for the Time being, by any Deed or Writing under the Seal of the said Duchy, to grant, convey and release, in the Name of His Majesty, His Heirs and Successors, unto such several and respective Purchasers and their Heirs in Fee Simple, the several and respective Parcels of Land or Ground by him, her, or them respectively purchased, free from all Rents and Payments whatsoever, which said Deed or Writing so sealed as aforesaid, and duly enrolled with the Auditor for the South Parts of the said Duchy for the Time being, shall be effectual and sufficient in Law to vest in every such Purchaser and his Heirs the Fee Simple and Inheritance of the Lands therein to be comprized and described, notwithstanding the Act of the First Year of the Reign of Queen *Anne*, intituled, *An Act for the better Support of Her Majesty's Household, and the Honour and Dignity of the Crown*, or any other Act or Acts or other Impediments or Disability whatsoever, and the Receipt of the said Receiver General for such Purchase Monies, shall be a full and sufficient

Release

Releaſe and Diſcharge to every ſuch Purchaſer for the ſame, and ſuch Purchaſers ſhall be in no reſpect liable or bound to ſee to the Application thereof.

Application of the Monies ſo raiſed.

XLV. And be it further enacted, That the Monies which ſhall ariſe by ſuch Sale, ſhall, under the Order and Direction of the Chancellor and Council of the ſaid Duchy for the Time being, be applied and diſpoſed of in defraying the Sum awarded by the ſaid Commiſſioner as the Share or Proportion of His ſaid Majeſty, of the Coſts, Charges and Expences aforeſaid, and alſo the Expences of ring-fencing and ſubdividing the Reſidue of the ſaid Allotments.

Extract of Award to be tranſmitted to the Clerk of the Duchy of Lancaſter.

XLVI. And be it further enacted, That the ſaid Commiſſioner ſhall make an Extract under his Hand of ſo much of his Award as ſhall contain an accurate Deſcription of the Allotment to be ſet out to His Majeſty, together with ſuch Regulations or Proviſions relative to ſuch Allotment, or to any other Rights or Intereſts of His Majeſty, as may be contained in ſuch Award, and ſhall annex to ſuch Extract a Map or Plan thereof, and tranſmit the ſame to the Council of His Majeſty's Duchy of *Lancaſter* or to his Deputy, within Six Calendar Months after making and executing his Award, to be by him filed and recorded as Evidence amongſt the Records of His Majeſty's ſaid Duchy.

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

XLVII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now laſt paſt have been made upon the ſaid Moſs or Moor Grounds, 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 Incloſures or Encroachments ſhall have been made or ſubſiſted, the ſame ſhall be determined by the ſaid Commiſſioner, who ſhall proceed to ſettle ſuch Diſpute in the ſame Manner as by the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty he is 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.

XLVIII. And be it further enacted, That if any Perſon or Perſons after the paſſing of this Act, and before the Execution of the Award, ſhall cut, dig, take, pare, grave or carry away any Land, Soil, Earth, Turf, Sand, or Sods, in, upon or from the ſaid Commonable Lands and Waſte Grounds or any Part thereof, without the Licence of the ſaid Commiſſioner firſt had and obtained in Writing for that Purpoſe (which Licence the ſaid Commiſſioner is hereby empowered to grant), every ſuch Perſon ſo offending ſhall for every ſuch Offence ſo feit and pay any Sum not exceeding Forty Shillings, 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 *Friſkney* for the Benefit of ſuch Poor.

Exchanges to be made,

XLIX. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner to ſet out, allot and award any Lands, Tenements or Hereditaments whatſoever, within the ſaid Pariſh of *Friſkney*

in lieu of and in Exchange for any other Lands, Tenements and Hereditaments whatsoever within the said Parish, or within any adjoining Parish, Hamlet, or Township, provided that all such Exchanges be ascertained, specified and declared in the said Award of the said Commissioner, or by some Deed or Writing to which the said Commissioner shall be Party, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments 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, 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 Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively); and all and every such Exchange and 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, belonging to His Majesty, His Heirs or Successors, in Right of His Duchy of *Lancaster* without the Consent of the Chancellor of the Duchy of *Lancaster* for the Time being, or of any Lands, Tenements or Hereditaments held 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.

Costs of Exchanges and Partitions how to be paid.

L. Provided always, That all 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 Commissioner shall by any Writing under his Hand or by his said Award, order and direct.

Settlements, &c. not to be affected, nor Wills revoked.

LI. 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 Lands, Tenements or Hereditaments hereby directed to be divided and inclosed, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act respectively; but as well the Lands allotted, as the Tenements or other Hereditaments which shall be so 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 seized and possessed thereof respectively, to, for and upon such and the same Uses, Estates, Intents, 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 subject or liable to, or have been held by, in case the same had not been assigned or exchanged, and this Act had not been made; save and except 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 first herein recited Act of the Forty-first Year of His present Majesty.

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

LII. And be it further enacted, That all Allotments of 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 and Payments, Reliefs and Fines, Dues, Duties, Suits and Services, as the several and respective Messuages, Lands, Tenements and Hereditaments, in respect of which the said several Allotments shall be so set out or allotted, are and have heretofore been holden respectively.

Leases at Rack Rent to be void, &c.

LIII. 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 Lands and Grounds hereby directed to be divided and inclosed, or which shall by virtue of this Act or the said first herein recited Act of the Forty-first Year of His present Majesty, be exchanged, and of all Messuages, Cottages, Lands, Tenements or Hereditaments in the said Parish of *Friskney*, 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 Commissioner shall by Writing under his Hand, order and direct, so as the respective Lessors or Landlords of such Messuages, Cottages, Lands or Tenements, 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 between them, or as the Commissioner being thereto required by either of the Parties, shall ascertain and direct: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Parish of *Friskney*, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting may be vacated; but where any Land shall be taken in Exchange, which Land shall be under Lease, and wholly situate in any adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

Proprietors may sell their Allotments.

LIV. And be it further enacted, That it shall be lawful for any Person or Persons who shall be entitled to any Allotment or Allotments to be made

made by virtue of this Act, to ſell and diſpoſe of all his, her or their Eſtate, Right, Title or Intereſt therein, at any Time before the Execution of the ſaid Award, and on a proper Conveyance, Aſſurance or other Diſpoſition being executed or paſſed, every ſuch Aſſurance or Diſpoſition ſhall be good, valid and effectual in the Law; and it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required, upon the Conveyance or other Inſtrument by which ſuch Sale or Diſpoſition is confirmed, being produced to him, and the Execution thereof being proved to his Satisfaction, to allot the ſame to the Purchaſer or Purchaſers thereof reſpectively.

Expences of Magdalene College to be paid by their Leſſee.

LV. Provided always, and be it further enacted, That the Leſſee or Leſſees of the Preſident and Scholars of *Saint Mary Magdalene* College in the Univerſity of *Oxford*, ſhall reſpectively bear and defray the ſeveral Proportions of the Coſts, Charges and Expences of obtaining this Act, and of carrying the ſame and the ſaid firſt herein recited Act into Execution, which ſhall be charged upon or be payable by the ſaid Preſident and Scholars for the embanking and draining of the ſaid Marſhes, or in reſpect of any Allotment or Allotments of the ſaid Moſs or Moor Grounds, Open Fields, Commonable Lands, or Waſte Grounds, or for or in reſpect of any Right of Common or other Right appurtenant to the Lands, Tenements or Hereditaments demiſed to ſuch Leſſee or Leſſees reſpectively, by the Preſident and Scholars of the ſaid College.

Auditor of the Commiſſioner's Accounts.

LVI. And be it further enacted, That *Bartholomew Claypon* of *Boſton* in the County of *Lincoln* Eſquire, ſhall be and he is hereby appointed Auditor of the Accounts of the ſaid Commiſſioner; 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 new Commiſſioner, and ſo from Time to Time as often as Occaſion ſhall require; and the Account of the ſaid Commiſſioner for the Time being, containing a true Statement of all Sums by ſuch Commiſſioner received and expended, or due to him for his own Time, Trouble or Expences, ſhall, at leaſt once in every Year from the paſſing of this Act (if required) 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 Commiſſioner; and that no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or be valid in Law, unleſs the ſame ſhall be duly allowed by the ſaid Auditor.

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

LVII. 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 Commiſſioner, together with lawful Intereſt for the ſame, out of the firſt Monies to be raiſed by virtue of this Act, or the ſaid firſt herein-recited Act of the Forty-firſt Year of His preſent Majeſty.

LVIII. And

Award to be depoſited.

LVIII. And be it further enacted, That the Award to be made by the ſaid Commiſſioner under or by virtue or in purſuance of this Act, or of the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty, ſhall be enrolled with the Clerk of the Peace for the Parts of *Lindſey*, in the ſaid County of *Lincoln*, and when ſo inrolled ſhall be depoſited in the Church of *Friſkney* aforeſaid, and a true Copy of ſuch Enrolment, or of any Part thereof, certified under the Hand of the ſaid Clerk of the Peace or his Deputy for the Time being, ſhall be allowed and admitted as Evidence in all Courts of Law or Equity.

Penalty for damaging any Works, or obſtructing the Execut on of this Act.

LIX. And, for preventing the breaking down, deſtroying or damaging any of the Works which ſhall be made or altered in purſuance of this Act, or otherwiſe obſtructing the Execution of the ſame; be it further enacted, That if any Perſon or Perſons ſhall at any Time or Times hereafter wilfully or maliciouſly demoliſh, pull down, break, ſpoil or otherwiſe deſtroy any Drain, Bank, Outlet, Sluice, Gowt, Clough, Bridge, Tunnel or other Works, which ſhall at any Time or Times hereafter be made or erected for the Purpoſes of this Act, all and every Perſon or Perſons ſo offending, and being thereof lawfully convicted, ſhall be ſubject and liable to the like Pains and Penalties as in Caſes of Felony; and the Court by and before whom ſuch Perſon or Perſons ſhall be tried and convicted, ſhall have Power and Authority to cauſe ſuch Perſon or Perſons to be puniſhed in ſuch Manner as Felons are directed to be puniſhed by the Laws and Statutes of this Realm, or the Court may and are hereby empowered, if they ſhall think fit, in Mitigation of ſuch Puniſhment, to award and impoſe ſuch Fine or Impriſonment as ſuch Court ſhall judge expedient.

Perſons aggrieved may Appeal to the Quarter Seſſions.

LX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this Act or the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty, (other than and except ſuch Orders and Determinations of the ſaid Commiſſioner as are in this preſent Act or the ſaid firſt herein recited Act of the Forty-firſt Year of His preſent Majeſty directed to be final, binding or concluſive, and except in ſuch Caſes where an Iſſue at Law ſhall be tried, as herein-before 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 Parts of *Lindſey* in the ſaid County of *Lincoln*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioner, and to the Party or Parties concerned Twenty-eight 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

Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed 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, as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Recovery of Penalties.

LXI. And be it further enacted, That all Penalties, Forfeitures and Fines, impoſed or authorized to be impoſed by virtue of this Act or the ſaid firſt herein-recited Act of the Forty-firſt Year of His preſent Majeſty, or by the ſaid Commiſſioner under the Authority of this Act or the ſaid firſt herein-recited Act of the Forty-firſt Year of His preſent Majeſty, 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 Parts of *Lindſey* in the County of *Lincoln*, not intereſted in the Matter in queſtion; for which Purpoſe it ſhall be lawful for any Juſtice of the Peace, upon Complaint made to him, to ſummon the Party accuſed, and the Witneſſes on both Sides, and upon the Appearance or Contempt of the Party accuſed, to examine ſuch Witneſſes upon Oath (which Oath any ſuch Juſtice is hereby empowered to adminiſter), and upon ſuch Evidence to give Judgement 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 or the ſaid firſt herein-recited Act of the Forty-firſt Year of His preſent Majeſty, ſhall, when and ſo ſoon as the ſame ſhall be levied, be paid and applied to, and for ſuch Uſes, Intents or Purpoſes, as the ſaid Commiſſioner in and by any Writing or Writings under his Hand, or in and by his Award, ſhall order, direct, or appoint.

General Saving.

LXII. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, as well in Right of His Crown as in Right of His Duchy of *Lancaſter*, and to all and every other Perſon and Perſons, Body or Bodies Politic, Corporate, or Collegiate, and his, her, and their Heirs, Succeſſors, Executors, and Adminiſtrators, (except the ſeveral Perſons to whom any Allotment or Allotments ſhall be made 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 in, to, or out of the Lands and Grounds hereby directed to be divided and incloſed, in caſe this Act had not been made.

Publick Act.

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

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