ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 163.

An Act for incloſing Lands in the Pariſhes of *Holbeach* and *Whaplode*, in the County of *Lincoln*.

[9th *June* 1812.]

WHEREAS there is within the Pariſhes of *Holbeach* and *Whaplode* in the County of *Lincoln* a certain Tract of Land called *Holbeach* and *Whaplode Common*, containing One thouſand and eight hundred Acres, or thereabouts, upon or over which the Proprietors of Meſſuages, Cottages, Lands, and Hereditaments in the ſaid Pariſhes, have Right of Common and other Rights and Intereſts: And whereas there are within the ſaid Pariſh of *Holbeach*, certain Droves and Waſte Lands, upon or over which the Proprietors of Meſſuages, Cottages, Lands, and Hereditaments within that Pariſh have Right of Common and other Rights and Intereſts; and there are alſo within the ſaid Pariſh of *Whaplode* other Droves and Waſte Lands, upon or over which the Proprietors of Meſſuages, Cottages, Lands, and Hereditaments in the ſaid Pariſh of *Whaplode*, have Right of Common and other Rights and Intereſts: And whereas the King's moſt Excellent Majeſty, in Right of His Crown, is Lord of the Manor of *Whaplode Abbatis*, and the Right Honourable *Sampſon* Lord *Eardley* is Leſſee for Years of the ſaid Manor: And whereas the ſaid Lord *Eardley* is Lord of the Manor of *Holbeach Abbotts*, and in reſpect thereof claims to be Lord Paramount in the Pariſh of *Holbeach* aforeſaid, and as ſuch Lord Paramount to be excluſively entitled to the Soil of the Common, and other Commonable Droves and Waſte Lands within the ſaid Pariſh of *Holbeach*: And whereas *William Butt* Eſquire, is Lord of the Manor of *Holbeach Lord D'Acre*, and in reſpect thereof alſo

claims to be Lord Paramount in the Parish of *Holbeach* aforesaid, and as such Lord Paramount to be exclusively entitled to the Soil of the said Common and other Commonable Droves and Waste Lands within the said Parish of *Holbeach*: And whereas the Right Honourable Sir *Joseph Banks* Baronet, is Lord of the Manor of the Hospital of *Saint John of Jerusalem*; the Reverend *Maurice Johnson* Doctor in Divinity, is Lord of the Manor of *Whaplode Kirk Fee*; *Thomas Foster* Gentleman, is Lord of the Manor of *Whaplode Knevitts*; the Master, Fellows, and Scholars of the College of *Saint John the Evangelist*, in the University of *Cambridge*, are Lords of the Manor of *Holbyge*; *William Henry Freemantle* Esquire, in Right of *Mary Selina* his Wife, is Lord of the Manor of *Whaplode Hagbeach*; *Ewan Law* Esquire, is Lord of the Manor of *Littleberry* in *Holbeach* and *Whaplode*; and *William Smith* is Lord of the Manor of *Holbeach* and *Whaplode Pipwell* otherwise *Pipewell*: And such several Lords claim to be seised of the Soil of the said Common and other Commonable Droves and Waste Lands in the Parishes of *Holbeach* and *Whaplode* aforesaid: And whereas His said Majesty, in Right of His Crown, and the said Lord *Eardley* as His Lessee, the Most Noble *Edward Adolphus Seymour* Duke of *Somerset*, the Right Honourable *Robert Stewart* commonly called *Viscount Castlereagh*, and the Right Honourable Lady *Amelia Ann Stewart*, commonly called *Viscountess Castlereagh*, his Wife, the said Sir *Joseph Banks*, the said Master, Fellows, and Scholars of the College of *Saint John* the *Evangelist*, and the Master of the said College, the Master of *Emanuel* College, the Master of *Clare Hall*, and the Master of *Sydney* College, all in the said University, and Sir *Isaac Pennington* Knight, as Trustees or Feoffees of Estates usually called the Estates of the Four Colleges in *Cambridge*, *Ewan Law*, *William Butt*, *Maurice Johnson*, *William Henry Freemantle*, in Right of his said Wife, *Fairfax Johnson*, *Philip Duncomb Pauncefort*, and *John Dove*, Esquires, and others, Proprietors of Messuages, Cottages, Lands, and Hereditaments in the Parishes of *Holbeach* and *Whaplode* aforesaid, are entitled to Right of Common, or other Rights and Interests upon the said Common and other Commonable Droves and Waste Lands: 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 said Common and other Commonable Droves and Waste Lands are, in their present State, incapable of any considerable Improvement, but if divided, allotted, and inclosed, would be of great Advantage to all Persons interested therein; but as such Division, Allotment, and Inclosure, cannot be effected without the Authority of Parliament: May it 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 *Samuel Dickinson* of *Thurganby* in the County of *Lincoln*, Gentleman, *Robert Millington* of *Gedney*, in the same County, Gentleman, and *Thomas Keeton* of *Market Deeping*, in the said County of *Lincoln*, Gentleman, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Common and other Commonable Droves and Waste Lands in the Parishes of *Holbeach* and *Whaplode* aforesaid, and for carrying this Act into Execution; subject to the Rules, Regulations, and Directions herein-after contained, and subject to such of the Powers, Re-

41 G. 3. c. 109.

Commissioners appointed.

gulations, Reſtrictions, and Proviſions contained in the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, as are not controuled by or repugnant to any of the Clauſes, Proviſions, or Regulations contained in this Act.

Certain inclosed Lands to be allotted.

II. And be it further enacted and declared, That certain Pieces or Parcels of incloſed Land, containing by Eſtimation Two hundred and fifty Acres or thereabouts, heretofore Parcel of the ſaid Common called *Holbeach* and *Whaplode Common*, and which by virtue of an Act of Parliament paſſed in the Thirty-third Year of the Reign of His preſent Majeſty, intituled *An Act for draining, preſerving, and improving certain Lands lying in the ſeveral Pariſhes of* Spalding (*including the Hamlets of* Cowbit *and* Peakill), Weſton, Moulton, Whaplode, Holbeach, Fleet Gedney, Sutton Saint Mary, *and* Sutton Saint Nicholas *otherwiſe* Lutton, *all in* South Holland *in the County of* Lincoln, were by virtue of the Powers contained in the ſame Act incloſed, and charged by way of Mortgage, with the Payment of the Sum of Three thouſand five hundred and fifty Pounds, being the Amount of the Aſſeſſments and Taxes aſſeſſed upon the ſaid Common and other Commonable Droves and Waſte Lands in the ſaid Pariſhes of *Holbeach* and *Whaplode*, or ſome Parts thereof, and of the Coſts and Charges of incloſing, fencing, and charging the ſame Lands, and incident thereto, ſhall be deemed Parts of the Lands to be divided and allotted by virtue of this Act, and ſhall be awarded and allotted accordingly, ſubject and without Prejudice nevertheleſs to all the Charges and Incumbrances made thereupon by virtue of the ſame Act, or ſuch of them as ſhall remain and continue in force: Provided always, that it ſhall and may be lawful for any Two of the Commiſſioners hereby appointed, or to be elected in Manner herein-after mentioned, and they are hereby fully authorized and empowered to execute, do, and perform every or any Act, Matter, or Thing, either by this or the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, authorized to be done and performed by the ſaid Commiſſioners; and every ſuch Matter and Thing which ſhall be executed, done, and performed by any Two of the ſaid Commiſſioners for the Time being, ſhall be as valid and effectual to all Intents and Purpoſes as if all the ſaid Commiſſioners herein-before appointed, or to be elected in Manner herein-after mentioned had been preſent, and had executed, done, and performed the ſame; any Thing in this Act contained to the contrary notwithſtanding.

33 G. 3.

Two Commiſſioners may act.

Appointment of new Commiſſioners.

III. And be it further enacted, That in caſe the ſaid *Samuel Dickinſon* ſhall die, refuſe, or neglect to act, or become incapable of acting as a Commiſſioner in the Execution of this Act, then and in ſuch Caſe His ſaid Majeſty or His Leſſee, and the other Lords of the ſaid ſeveral Manors for the Time being, or the major Part of them, ſhall by themſelves or their reſpective Agents duly authorized in Writing under their Hands, by Writing under the Hands of ſuch Lords or Agents reſpectively, nominate and appoint ſome other fit Perſon (not intereſted in the ſaid intended Diviſion and Allotment) to be a Commiſſioner in the Stead of the ſaid *Samuel Dickinſon*, and ſo from Time to Time as often as any Commiſſioner to be appointed as laſt aforeſaid ſhall die, refuſe, or neglect to act, or become incapable of acting as aforeſaid; and in caſe the ſaid *Robert Millington* and *Thomas Keeton*, or either of them, ſhall die, refuſe, or neglect to act, or become incapable of acting as a Commiſſioner in the Execution of this

Act,

Act, then and in ſuch Caſe the ſurviving or remaining Commiſſioners or Commiſſioner for the Time being, or any Two or more of the ſaid Proprietors (except His ſaid Majeſty or His Leſſee, and the other Lords of the ſaid Manors for the Time being), ſhall by Advertiſement in the Newſpaper called *Lincoln Rutland* and *Stamford Mercury*, or in ſome other Newſpaper uſually circulated in that Part of the County of *Lincoln* where the Lands to be incloſed do lie, and by Writing to be affixed upon the principal outer Door of each of the Pariſh Churches of *Holbeach* and *Whaplode* aforeſaid, upon ſome *Sunday* immediately before Divine Service, appoint a Time for the Proprietors of Meſſuages, Cottages, Lands, and Hereditaments within the ſaid ſeveral Pariſhes of *Holbeach* and *Whaplode* (except the Lords of the ſaid Manors for the Time being), to meet at a certain Time within Twenty Days after ſuch Notice, at ſome convenient Place in *Holbeach* aforeſaid, or in *Spalding* in the ſaid County of *Lincoln*, for the Appointment of another Commiſſioner or Commiſſioners in the Stead of the ſaid *Robert Millington* and *Thomas Keeton*, or either of them, ſo dying, refuſing, or neglecting to act, or becoming incapable of acting as aforeſaid; and the Proprietors of Commonable Meſſuages, Cottages, Lands, and Hereditaments in the Pariſhes of *Holbeach* and *Whaplode* aforeſaid (except as aforeſaid), or the major Part of them in Value (ſuch Value to be aſcertained by the Land Tax Aſſeſſment for the then current Year), who by themſelves or their reſpective Agents duly authorized in Writing under their Hands, ſhall attend ſuch Meeting, ſhall and may, by Writing under the Hands of ſuch Proprietors or Agents reſpectively, appoint ſome other fit Perſon or Perſons (not intereſted as aforeſaid) to be a Commiſſioner or Commiſſioners in the Place and Stead of the ſaid *Robert Millington* and *Thomas Keeton*, or either of them, who ſhall die, refuſe, or neglect to act, or become incapable of acting as aforeſaid, and ſo from Time to Time as often as any Commiſſioner who ſhall be appointed as laſt aforeſaid ſhall die, refuſe, or neglect to act, or become incapable of acting as aforeſaid; and in caſe both or either of the reſpective Perſons or Parties herein-before authorized to appoint ſuch Commiſſioner or Commiſſioners as aforeſaid, ſhall refuſe or neglect to appoint ſuch Commiſſioner or Commiſſioners as aforeſaid, for the Space of Twenty Days after any ſuch Vacancy in the Commiſſion ſhall happen as aforeſaid, then and in every ſuch Caſe, and during the Continuance of ſuch Vacancy, the ſurviving or remaining Commiſſioners or Commiſſioner for the Time being ſhall by Writing under their or his Hands or Hand appoint ſome fit Perſon or Perſons, not intereſted as aforeſaid, to be a Commiſſioner or Commiſſioners in the Stead of ſuch Commiſſioner or Commiſſioners ſo dying, refuſing, neglecting, or becoming incapable of acting as aforeſaid, whoſe Place or Places ſhall not have been filled up by the reſpective Perſons or Parties previouſly enabled to elect and appoint ſuch new Commiſſioner or Commiſſioners as aforeſaid; and every Commiſſioner who ſhall be elected and appointed in any Manner as aforeſaid, ſhall have the ſame Powers and Authorities of acting in the Execution of this and the ſaid recited Act, as the Commiſſioner in whoſe Stead he ſhall be appointed was originally inveſted with by virtue of this Act.

Appointment of Clerk.

IV. 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,

remove, and to nominate and appoint ſome other fit and proper Perſon or Perſons to ſucceed him or them in ſuch Office.

Meetings of Commiſſioners.

V. 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 each of the ſaid Pariſh Churches of *Holbeach* and *Whaplode*, of the Time and Place of their Firſt and every other Meeting for the Execution of this Act, and alſo by Advertiſement in the *Lincoln, Rutland, and Stamford Mercury*, or in ſome other Newſpaper uſually circulated in the Neighbourhood of the ſaid Pariſhes, at leaſt Seven Days before any ſuch Meeting ſhall be held (Meetings by Adjournment only excepted); and that 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 ſuch 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 adjourned Meeting was to have been holden, and ſhall and he and they is and are hereby required forthwith to give Notice of ſuch Adjournment to the ſaid Commiſſioners.

Place of Meeting.

VI. 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 Pariſhes of *Holbeach* and *Whaplode* aforeſaid, or one of them, or within the Diſtance of Eight Miles from the Boundaries of one of thoſe Pariſhes.

Notices in general, how to be given.

VII. And be it further enacted, That all other Notices requiſite or neceſſary to be given and publiſhed by the ſaid Commiſſioners in purſuance of this or the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, ſhall be given by Advertiſement in the ſaid Newſpaper called *The Lincoln, Rutland, and Stamford Mercury*, or in caſe the ſame ſhall not be then publiſhed, in ſome other Newſpaper publiſhed or circulated in that Part of the ſame County of *Lincoln* where the ſaid Lands do lie, and by Writing to be affixed on the outer Doors of the ſaid Pariſh Churches as aforeſaid.

Commiſſioners, &c. to pay their own Expences.

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

Survey to be made.

IX. And be it further enacted, That for the Purpoſes of this Act the ſaid Commiſſioners ſhall, if they find it neceſſary, and they are hereby empowered

empowered to cauſe a Survey of all or any Part of the ſaid Lands and Grounds at preſent incloſed within the ſaid Pariſhes of *Holbeach* and *Whaplode*, and of the ſaid Common and other Commonable Droves and Waſte Lands hereby directed to be divided and allotted, to be made and laid before them at any of their Meetings to be held in purſuance of this Act; which ſaid Survey ſhall be verified upon the Oath or Oaths of the Perſon or Perſons making the ſame, and cauſe Maps and Plans of the ſame to be made, or otherwiſe to uſe any Survey and Map already taken and made of the ſame Incloſed Lands and Grounds, Common and Commonable Droves and Waſte Lands, or any Part thereof, as they in their Diſcretion ſhall think fit; provided that no Perſon acting as a Commiſſioner in the Execution of this Act, ſhall act as a Surveyor for the Purpoſes thereof during the Time he ſhall be a Commiſſioner.

Commiſſioners not to act as Surveyors.

Commiſſioners to ſettle Diſputes;

X. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between His Majeſty and any of the Parties intereſted or claiming to be intereſted in the ſaid intended Diviſion and Allotment, or between any other of the Parties intereſted, touching or concering the reſpective Rights and Intereſts claimed by His Majeſty, or by the Lords of the ſaid Manors, or any of them, or touching or concerning any other Rights or Intereſts which His ſaid Majeſty or any of the ſaid Parties, or any of them, ſhall claim to have in or upon the ſame Common and other Commonable Droves and Waſte Lands, or touching or concerning any other Matter or Thing relating to the ſaid Diviſion or Allotment, it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to examine into, hear, adjudge, and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize or empower the ſaid Commiſſioners to determine the Title to any Meſſuages, Cottages, Lands, or Hereditaments whatſoever, nor 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); but in caſe the ſaid Commiſſioners ſhall be of Opinion againſt the Rights of the Perſon or Perſons ſo in Poſſeſſion, they 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.

but not to determine Titles contrary to Poſſeſſion.

Commiſſioners may award Coſts.

XI. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in purſuance of this 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 Commiſſioners and they are hereby authorized and required, 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 or Parties in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſon or Perſons, or Body or Bodies Politic, Corporate or Collegiate, whoſe Claim or Claims, Objection or Objections ſhall be thereby diſallowed or over-ruled, or againſt whom the ſaid Commiſſioners ſhall have determined as aforeſaid; and in caſe the Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate 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 or Perſons whomſoever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons, or Body or Bodies Politic, Corporate, or Collegiate, 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.

XII. Provided always, and be it further enacted, That in caſe the Lord or Lords of any Manor or Manors, or any other Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Allotment, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners, touching or concerning any Claim or Claims of or for any Right of Soil or Common or other Commonable Rights or Intereſts in, over, upon, or out of the ſaid Common and other Commonable Droves and Waſte Lands hereby directed to be divided and allotted, or any Part thereof, or concerning any Objection or Objections made to ſuch Claim or Claims, then and in every ſuch Caſe it ſhall be lawful for the ſaid Lord or Lords of any Manor or Manors, or other Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate ſo diſſatisfied, upon giving Two Months Notice in Writing to the ſaid Commiſſioners, or any of them, to have the Matter of any ſuch Claim or Objection tried at Law at the Aſſizes to be holden for the County of *Lincoln* after ſuch Determination ſhall be made and declared; and for that Purpoſe the Lord or Lords, or other Perſon or Perſons, Body or Bodies Politic, Corporate, or Collegiate who ſhall be diſſatisfied with ſuch Determination of the ſaid Commiſſioners, ſhall, after the Expiration of ſuch Two Calendar Months Notice as aforeſaid, but not before, cauſe an Action or Actions to be brought againſt either of the ſaid Commiſſioners, or any one or more of the Perſon or Perſons in whoſe Favour ſuch Determination ſhall have been made, in one of His Majeſty's Courts of Record at *Weſtminſter*, upon a feigned Iſſue to be ſettled by the proper Officer of the Court where ſuch Action ſhall be brought in caſe the Parties ſhall differ about the ſame, ſuch Action to be brought within Four Calendar Months next after ſuch Determination ſhall have been made; and the Defendant or Defendants in ſuch Action or Actions ſhall, and he, ſhe, or they is and are hereby required forthwith to name an Attorney or Attornies, who ſhall appear thereto or file Common Bail, and accept One or more Declaration or Declarations, and plead and proceed to Iſſue thereon, whereby 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 Aſſizes to be held for the ſaid County of *Lincoln* next after the Commencement of ſuch Action; and if at the Trial of any ſuch Iſſue or Iſſues it ſhall appear that the Party claiming is entitled to any qualified or leſs Right or Rights or Intereſts than was or were claimed by ſuch Party, then it ſhall and may be lawful for the Jury by whom ſuch Iſſue or Iſſues ſhall be tried to find and declare the ſame by their Verdict, which ſhall be indorſed on the *Poſtea* in Addition to the Verdict given on the Iſſue or Iſſues joined, but nevertheleſs the Coſts of ſuch Action or Actions ſhall abide and be determined by the Verdict given upon the Iſſue or Iſſues joined,

as

as if no ſuch Special Finding had been made; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions upon the Iſſue or Iſſues therein joined, in caſe there ſhall be no ſuch Special Finding and Indorſement, or ſuch Special Finding or Indorſement, if any ſuch ſhall be made, ſhall be binding upon all the Parties intereſted therein, unleſs the Court wherein ſuch Action or Actions ſhall be brought ſhall ſet aſide ſuch Verdict or Verdicts, or Finding and Indorſement, and order a new Trial or Trials to be had thereupon, which it ſhall be lawful for the Court to do, as is uſual in other Caſes; and after ſuch Verdict or Verdicts, or Special Finding or Indorſement, ſhall be obtained, the ſame not being ſet aſide by the Court, the ſaid Commiſſioners ſhall and they are hereby authorized and required to act in Conformity thereto, and to allow or diſallow the Claim or Claims, Objection or Objections thereby determined, according to ſuch Verdict or Verdicts, or Finding and Indorſement as aforeſaid: Provided always, that it ſhall be lawful for ſuch Commiſſioners to retain or pay all ſuch Coſts, Charges, or 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 Actions, out of any Monies which ſhall come to their Hands by virtue 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 to be brought and proceeded in as aforeſaid, ſhall be abſolutely final and concluſive.

Determination of Commiſſioners to be final, if not objected to.

If Parties die, Proceedings not to abate.

XIII. 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 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 Action brought.

XIV. Provided always, and be it further enacted, That if any Lord or Lords of any Manor or Manors, or other 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 Lord or Lords of any Manor or Manors, or other Perſon or Perſons, Body or 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 or Clerks of the ſaid Commiſſioners 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.

XV. Provided

Trial not to suspend the Execution of the Act.

XV. Provided always, and be it further enacted, That no such Difference, Suit, Action, or Proceeding as aforesaid, nor any Difference, Dispute, or Proceeding touching the Title to any Messuages, Cottages, Toftsteads, Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioners in the Execution of this Act, but the Division, Allotment, and Inclosure hereby directed to be made, shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

Power to shorten Boundary Fences.

XVI. And be it further enacted, That in order to straighten and shorten the Boundary Fences, as well between any of the Lands by this Act directed to be divided and inclosed, as between the Lands by this Act directed to be divided and inclosed and other Lands in any adjoining Parish or Parishes, Manor or Manors, it shall be lawful for the Commissioners for the Time being, with such Consent as herein-after mentioned, to straighten and shorten such Boundary Fences as aforesaid, or any of them, or any Part or Parts thereof, and to set out and ascertain such Boundary Fences for the Purposes aforesaid, as the said Commissioners shall judge proper; and after any such new Boundary Fences shall be set out and ascertained as aforesaid, the same shall be made by such Person or Persons, in such Manner and at such Time or Times as the said Commissioners shall order and direct, and such Fences shall accordingly for ever thereafter be deemed and taken to be the Boundaries between such Parishes and Manors respectively; provided that no new Boundary Fence shall be set out or made in pursuance of this Act, without the previous Consent in Writing under the Hands of the Lord or Lords of the Manor or Manors, or Owner or Owners of the Soil liable to be affected thereby, or the major Part in Value (such Value to be ascertained according to the Land Tax Assessment for the then current Year) of such Owners, and also of the Owner or Owners of the Lands upon which any new Fence is intended to be made, for that Purpose first had and obtained.

Encroachments within 30 Years to be deemed Part of the Common, &c.

XVII. And be it further enacted, That all Encroachments which have been made upon the said Common and other Commonable Droves and Waste Lands intended by this Act to be divided and inclosed, within the Space of Thirty Years next preceding the Twenty-fourth Day of *June* One thousand eight hundred and twelve, and none other, shall be deemed Part of the Lands and Grounds hereby directed to be divided and allotted; and in case any Difficulties or Disputes shall happen to arise touching what are Encroachments, or whether the same have been made within the Time aforesaid, such Difficulties and Disputes shall be settled and determined by the said Commissioners, who shall have Power to examine Witnesses on Oath or Affirmation, and examine and receive such other Evidence as they shall think proper; and shall set out and allot unto such Person or Persons being entitled to Right of Common, or other Right and Interests in, over, or upon the said Common and other Commonable Droves and Waste Lands, as are and shall be in the Possession of any such Encroachment or Encroachments, all and every the Lands or Grounds comprised therein, for and in Part of the Allotment to be so made to them respectively by virtue of this Act; and in case the Person or Persons having made such Encroachment or Encroachments respectively shall have no such Right of Common as aforesaid, and shall desire to be the Purchaser or Purchasers of such Encroachment or Encroachments respectively, and signify such his, her, or their Desire in Writing under his, her, or their Hand or Hands respectively to the said Commissioners at any Meeting to

be held in pursuance of this Act, either agreeable to Notice or in consequence of Adjournment, then and in all such Cases, and also where it shall happen that the Encroachment or Encroachments made by any Person or Persons entitled to Allotments shall be greater or more (Quantity and Quality considered) than the Allotment or Allotments amount unto which belong to the Person or Persons in Possession of such Encroachment or Encroachments respectively, the said Commissioners are hereby directed and required to charge all such Persons for the Whole or Part of the said Encroachments, as the Case shall be, at the Rate of Thirty Years Purchase on the gross annual Value of the Grounds comprized in such Encroachment or Encroachments, according to its original intrinsic Value, and the Value of the Residue of the said Common and other Commonable Droves and Waste Lands so intended to be divided and inclosed, without regard to the Improvement made thereon; and the said several Sums of Money so charged as aforesaid shall be recoverable by the said Commissioners in a summary Way, or by an Action at Law to be brought against the Person or Persons in Possession of such Encroachment or Encroachments; and all such Money so to be received as aforesaid is to be paid and applied by the said Commissioners towards discharging the Expenses of passing and executing this Act, and if there shall be any Surplus after answering those Purposes, the same shall be applied in the Manner hereinafter directed in that Behalf; and the said Encroachment or Encroachments shall, on Payment of the said several Sums of Money so to be charged as aforesaid, either from and immediately after the Execution of the Award of the said Commissioners herein-after directed to be made, or at such other Time as the said Commissioners shall by any Writing under their Hands and Seals direct or appoint, vest in the several Persons so paying for the same, as Freehold Estates of Inheritance; any Law, Usage, or Custom of Courts within the said Manors, or any of them, to the contrary thereof in anywise notwithstanding.

Certain Pieces of Land which have been set out by the Jury and Homage of the respective Manors not included in this Act.

XVIII. And whereas divers Pieces or Parcels of Land, Parcel of the said Common, and other Commonable Droves and Waste Lands, have been set out by the Jury and Homage of the said several Manors of *Whaplode Abbatis*, *Holbeach Abbotts*, *Holbeach Lord D'Acre*, and *Holbeach* and *Whaplode Pipwell* otherwise *Pipewell*, with the Consent of the several Lords of the said several Manors for the Time being, to divers Persons, and the same are now inclosed, and the Entries of the Lands so inclosed have been made in the Court Rolls of the said several Manors, and for which Lands so inclosed certain Fines and Rents have been paid and are now payable to the Lords of the said several Manors; be it therefore enacted, That all such Pieces or Parcels of the same Common and other Commonable Droves and Waste Lands as have been set out by the Jury and Homage of the said Manors respectively to any Person or Persons who have inclosed the same, for a Period of Thirty Years preceding the Twenty-fourth Day of *June* One thousand eight hundred and twelve, shall not be deemed or taken to be Part of the Lands to be inclosed by virtue of this Act; but the Person or Persons who have made such Inclosures, his, her, or their Heirs or Assigns, shall and may enjoy the same respectively, subject nevertheless to the Reservations, Fines, Annual Rents and Payments under which the same now are or heretofore have been held and enjoyed.

The Lords of such Manors empowered to

XIX. And be it further enacted, That it shall be lawful for the several Lords of the said last-mentioned Manors for the Time being, and they are

are hereby authorized and empowered, to sue for and recover all Sum and Sums of Money which may have been agreed to be paid to the said Lords respectively, by way of Rent or Fine in respect of such Inclosures of the said Common and other Commonable Droves and Waste Lands as last aforesaid, in such Manner and by such Means as any Rent Service or other Rents in Arrear can or may by Law be sued for and recovered. Sue for Rent, &c. in Arrear.

XX. And whereas various Persons in the said Parishes of *Holbeach* and *Whaplode* have stopped up and inclosed divers Public and Carriage Roads, Driftways, Passages, Banks of Rivers and Headings, being severally Part of the Lands and Grounds to be inclosed by virtue of this Act, and taken and converted the same to their own Use, and also stopped up divers Footways and Passages; be it therefore further enacted, That the said Commissioners shall and they are hereby authorized, empowered, and directed to throw open the said Public and Carriage Roads, Driftways, Passages, Banks of Rivers, and Headings, and also all Footways and Passages, for the Use of the Inhabitants of the said Parishes of *Holbeach* and *Whaplode*, and for all other Purposes whatsoever, or otherwise to dispose of the same, in the like Manner as herein-before is directed concerning Encroachments on the said Common and other Commonable Droves and Waste Lands. Roads enclosed to be deemed Encroachments.

XXI. And be it further enacted, That in case it shall appear to the said Commissioners that there are or is any public Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway in, through, over, or on the Sides of any of the Old Inclosed Lands, or other Lands within the said Parishes which may in the Judgment of the said Commissioners be diverted and turned, without Inconvenience to the Public, into any other public Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway, or be diverted or turned so as to make the same more convenient to the Public, or be stopped up and discontinued as superfluous and unnecessary, it shall be lawful for the said Commissioners, with the Concurrence of Two Justices, and on giving Notices, subject to Objection or Appeal as in the said recited Act of the Forty-first Year of the Reign of His present Majesty is mentioned respecting the setting out, varying, and shutting up the public and private Carriage Roads, Bridleways and Footways, to order and direct such public Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway to be altered, turned, stopped up, or discontinued, in such Manner as the said Commissioners shall think proper; and in case such Highways or Highway, Bridle Roads or Bridle Road, Footways or Footway so to be diverted, turned, stopped up, or discontinued, 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 same Lands and Soil of such Roads to the Person or Persons whose Lands lie contiguous thereto, or other Person or Persons who shall be willing to purchase the same, and apply the Money arising therefrom towards repairing the public Highways within the Parish in which the same do lie. Commissioners may alter Roads through old Inclosures.

XXII. And whereas several of the Droveways in the said Parishes of *Holbeach* and *Whaplode*, being Part of the said Commons, are wider than necessary, and some of them may be dispensed with, and it may not happen that the same are contiguous and adjoining to the Estates of such Unnecessary Droveways may be sold to Proprietors of the adjoining Lands not

having Right of Common.

such Persons as will be entitled to Allotments out of the said Common and Commonable Droves and Waste Lands hereby directed to be divided and inclosed; be it therefore enacted, That the said Commissioners shall and may and they are hereby authorized and empowered to sell so much and such Parts of the said Droveways as is and are unnecessary to be retained as a Droveway or Road, to the several Persons not having Right of Common, whose Lands or Grounds shall abut thereupon, at such respective Prices or Sums of Money as shall be equal to the Amount of Twenty-five Years Purchase on the gross annual Value set thereon by the said Commissioners, and the Purchase Money shall be paid to the said Commissioners, and shall be by them applied towards discharging the Expences of passing and executing this Act; and if there shall be any Surplus after answering those Purposes, the same shall be applied in the Manner hereinafter directed in that Behalf; and the said Commissioners shall and they are hereby empowered to give effectual Receipts and Acquittances for the Money so to be paid to them, and in and by their Award, or by any Deed or Instrument in Writing under their Hands and Seals, to allot or convey and assure the said several Parcels of Land to the respective Purchasers thereof and their Heirs, and thenceforth the same several Parcels of Land shall be held and enjoyed by the respective Purchasers thereof, their Heirs and Assigns, as Freehold Lands of Inheritance; provided that in all such Cases the said Commissioners shall leave Forty Feet of clear Road Drift or Carriage Way.

Cattle not to be kept on Roads.

XXIII. And be it further enacted, That no Horses, Beasts, Asses, Sheep, Lambs, Swine, or other Cattle, or Geese, shall at any Time after the said Allotments herein-after directed to be set out shall be entered upon by the respective Proprietors thereof, be kept in any of the public Carriage Roads or Ways to be set out and fenced off in pursuance of this Act.

Power to make Drains, &c.

XXIV. And be it further enacted, That the said Commissioners shall and may scour out, deepen, amend, repair, and widen all such ancient Drains, Ditches, Watercourses, Tunnels, Staunches, Sluices, Banks, and Bridges in the said several Parishes of *Holbeach* and *Whaplode*; and also shall and may set out and appoint such new Ditches, Drains, Watercourses, Tunnels, Staunches, Sluices, Banks, and Bridges, and other Requisites as well in, through, across, and over 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 several Parishes, and of such Depth and Width, and in such Directions as shall by the said Commissioners be thought proper, necessary, and expedient, making reasonable Satisfaction to all and every Persons and Person who may sustain any Damage thereby; and the said Commissioners shall and may and they are hereby directed, 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, and at what Time and in what Manner the said Drains, Ditches, Watercourses, Tunnels, Staunches, Sluices, Banks, Bridges, and other Requisites shall be made and thereafter repaired, cleansed, scoured, and maintained: Provided always, that no such Drains, Streams, or Watercourses shall be diverted or turned without the Consent in Writing of the Person or Persons from and out of whose Lands the same shall be diverted, and of the Person or Persons through or into whose Lands the same shall be turned: Provided also, that nothing herein contained

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 Common or Commonable Droves and Waste Lands hereby directed to be divided and inclosed shall be allotted by virtue of this Act, to interfere or meddle with the Banks, Drains, Sluices, Bridges, Tunnels, or other Works of Drainage made or to be made under or by virtue of the said Act of the Thirty-third Year of His present Majesty.

Commissioners to set out Land to get Materials for Roads and for Watering Places.

XXV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, and they are hereby authorized and empowered, before any other Allotment is made in pursuance of this Act, to set out any Parcel or Parcels of Land within the said respective Parishes of *Holbeach* and *Whaplode*, being Part of the Lands directed by this Act to be divided, not exceeding in the Whole Ten Acres in each of the said Parishes, to be used and enjoyed for ever thereafter by the Proprietors of Estates within the same respective Parishes, for the Purpose of getting Materials for repairing the said Roads and Ways; and the said Parcel or Parcels of Land, when so set out, shall be and the same are and is hereby vested in the Surveyor or several Surveyors of the Highways of the said Parishes of *Holbeach* and *Whaplode* respectively for the Time being; and the said Commissioners, or any of them, shall also set out, allot, and appoint such Ponds, Pits, and Watering Places for Cattle as they shall think fit, upon the said Common and other Commonable Droves and Waste Lands, for the Use of the Owners and Occupiers of Messuages, Cottages, Lands, and Hereditaments in the said Parishes of *Holbeach* and *Whaplode* respectively.

Herbage of such Allotments to be disposed of as Commissioners direct.

XXVI. Provided always, and be it further enacted, That the Grass and Herbage growing, arising, and renewing upon the said Pieces or Parcels of Land so directed to be set out for the Purpose of getting Materials for the Repairs of the same Roads and Ways, shall be disposed of in such Manner as the said Commissioners shall in and by their Award order, direct, and appoint.

Lands to be sold for defraying Expences, &c.

XXVII. And be it further enacted, That for raising Money for the Purpose of paying off the said Principal Sum of Three thousand five Hundred and fifty Pounds, due and owing on Mortgage of the said Two hundred and fifty Acres of Land, inclosed under the Authority of the said Act of the Thirty-third Year of His present Majesty, with the Interest due in respect thereof, (such Mortgagee first duly accounting for, allowing, and deducting from the Amount of his Principal Money and Interest what has from Time to Time come to his Hands by and out of the Rents and Profits of the said mortgaged Premises), and also for paying the Costs, Charges, and Expences of obtaining this Act, and of the several Proceedings heretofore had preparatory thereto, and of inclosing the Allotment or Allotments to be made to the Surveyor or Surveyors of the Highways within the said several Parishes of *Holbeach* and *Whaplode*, and all the Costs of surveying, measuring, planning, valuing, dividing, and allotting the said Common and other Commonable Droves and Waste Lands, and of preparing and inrolling the Award of the said Commissioners, and all the Charges and Expences of the said Commissioners, and of

of the ſeveral Perſons to be employed by them in and about the Premiſes, either before or after the Execution of the ſaid Award, and all the Expences of fencing, completing, and repairing the public and Carriage Roads, Driftways and Highways, Bridges, Drains, Tunnels, and Watercourſes to be made, ſet out, and appointed by the ſaid Commiſſioners for executing this Act, or the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, and all other neceſſary Expences of carrying this Act into Execution, or ſo much of ſuch Principal, Intereſt, and Expences as ſhall not be ſatisfied and paid by any other of the Ways and Means herein provided in that Behalf, it ſhall be lawful for the ſaid Commiſſioners and they are hereby authorized, empowered, and directed, 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 Lands to be allotted by virtue of this Act as the ſaid Commiſſioners ſhall in their Diſcretion deem ſufficient for the Purpoſe aforeſaid, in Lots not containing more than Twenty Acres in each Lot, and for that Purpoſe the ſaid Commiſſioners ſhall ſet out ſuch ſufficient Parts of the Lands to be allotted by virtue of this Act as in their Judgment ſhall be moſt convenient for Sale, to be ſold by Public Auction to the beſt Bidder or Bidders, at ſome or one of their Meetings to be held in purſuance of this Act, of which public Notice ſhall be given by the ſaid Commiſſioners in the ſaid Newſpaper called *The Lincoln, Rutland, and Stamford Mercury*, or in caſe the ſame ſhall not be then publiſhed, in ſome other Newſpaper publiſhed or circulated in that Part of the County of *Lincoln* in which the ſaid Lands do lie, at leaſt Twenty-one Days before ſuch Sale ſhall be made; and the Purchaſer or 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 effectual Receipts and Acquittances for the ſame, and alſo for the Money to be paid by way of 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 limited 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 and the Purchaſe thereof duly completed; or the ſaid Commiſſioners may, if they think proper, ſell and diſpoſe of ſuch Lot or Lots by Private Contract, for the beſt Price 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 unto the Purchaſer or reſpective Purchaſers thereof, and a Conveyance of the ſame by Leaſe and Releaſe made and executed by the ſaid Commiſſioners, ſhall be valid and effectual in the Law to veſt the ſame in ſuch Purchaſer or reſpective Purchaſers, and his, her, or their Heirs, ſubject nevertheleſs to ſuch Orders, Directions, and Reſtrictions as ſhall be laid down and appointed by the ſaid Commiſſioners in and by their Award; and the ſaid Commiſſioners ſhall, after

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 Money ariſing therefrom for the Purpoſes aforeſaid; provided nevertheleſs, that if there ſhall be any Overplus remaining of the Money ariſing from ſuch Sale or Sales as are herein-before authorized to be made by the ſaid Commiſſioners, after the Application and Diſpoſal of ſo much thereof as ſhall be neceſſary and required for any of the Purpoſes aforeſaid, the ſame, or ſo much thereof as the ſaid Commiſſioners ſhall think neceſſary, ſhall be applied towards the Repair of the public Roads herein-before mentioned, or any other of the Purpoſes of this Act, in ſuch Manner as the ſaid Commiſſioners by their ſaid Award, or by any other Inſtrument in Writing under their Hands ſhall direct and appoint; and the Reſidue of ſuch Surplus Money, if any, ſhall be divided and apportioned between the ſeveral Proprietors of and Perſons intereſted in the Lands hereby directed to be divided and allotted, in ſuch Shares as ſhall be in Proportion to their reſpective Rights and Intereſts; and the reſpective Shares of ſuch of them as ſhall be Tenants in Fee Simple of their reſpective Allotments, ſhall be paid to them reſpectively; and the Shares of ſuch other Proprietors of and in ſuch Reſidue ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty in Caſes where any Money is to be paid for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Parochial Diſtinction as to Lands to be ſold.

XXVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, immediately after Sale and Diſpoſal of all or any of the Lands directed to be ſold by virtue of this Act, or as ſoon after as conveniently may be, to aſcertain the ſeveral Rights and Intereſts to which His ſaid Majeſty, or His Leſſee, or other the Owners or Proprietors of the ſeveral Meſſuages, Cottages, Lands, and Hereditaments within the ſaid Pariſhes of *Holbeach* and *Whaplode* reſpectively would have been entitled in, over, and upon ſuch Lands, if the ſame had not been ſo ſold or diſpoſed of; and the ſaid Commiſſioners, after having aſcertained ſuch Rights and Intereſts as aforeſaid, ſhall in and by their Award, or in the mean Time until ſuch Award ſhall be executed by ſome Writing under their Hands, declare and ſpecify the ſeveral and reſpective Parts or Parcels of the Lands ſo ſold as aforeſaid, which in the Judgment of the ſaid Commiſſioners would have been a fair and reaſonable Compenſation for the aggregate Rights and Intereſts of the Owners or Proprietors of Meſſuages, Cottages, Lands, and Hereditaments in the ſaid Pariſhes of *Holbeach* and *Whaplode* reſpectively; and ſuch Parts or Parcels of the ſaid Lands ſo to be declared and ſpecified as aforeſaid ſhall be for ever deemed and taken to all Intents and Purpoſes whatſoever to be within and Parts or Parcels of the ſame Pariſhes reſpectively in which the Meſſuages, Cottages, Lands, and Hereditaments, in Right whereof ſuch Parts or Parcels of the Lands ſo ſold as ſhall be ſo declared and ſpecified as aforeſaid are ſituated.

Allotments for Manorial Rights in the Soil of the Common.

XXIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, after they ſhall have ſet out

out such Parts of the said Common and other Commonable Droves and Waste Lands hereby directed to be divided and inclosed, as shall be necessary for the public and private Roads, Ways, and Drains directed to be set out by this Act, or by the said Act of the Forty-first Year of His present Majesty; and also after they shall have set out Lands for Sale as herein-before directed, to set out for His Majesty, and His Lessee of the said Manor of *Whaplode Abbatis*, and for such other Lord or Lords as aforesaid as shall be entitled to the Soil of the said Common and other Commonable Droves and Waste Lands, such Part or Parts of the said Common, Commonable Droves, and Waste Lands hereby directed to be divided and allotted as shall in the Judgment of the said Commissioners be equal in Value to One Sixteenth Part of the Residue of such Common and other Commonable Droves and Waste Lands, as a Compensation, and in Lieu, Bar, and Satisfaction of and for his and their Manorial Rights and Interests of and in the Soil of the said Common and other Commonable Droves and Waste Lands; and after such general Allotment in respect of Manorial Rights shall be set out as aforesaid, the said Commissioners shall and they are hereby authorized and required to divide and allot the same in Severalty to His said Majesty and His Lessee, and such other Lord or Lords so entitled as aforesaid, according to their respective Rights and Interests therein; and the several Allotments so to be made shall be deemed and considered to all Intents and Purposes whatsoever to be within and Parts and Parcels of the same Parishes respectively to which the said Manorial Rights belong, or in respect of which the said Allotments shall be made.

Allotment of the Residue.

XXX. And be it further enacted, That the said Commissioners shall in the next Place divide, set out, and allot all the Residue and Remainder of the said Common and other Commonable Droves and Waste Lands hereby directed to be divided and allotted in Manner following; (that is to say,) Two Fifth Parts thereof in Value amongst and unto His Majesty and His said Lessee and the other Owners or Proprietors of Messuages and Cottages in the said several Parishes of *Holbeach* and *Whaplode*, having Right of Common thereon, and of Toftsteads whereon such Messuages or Cottages formerly stood (each Toftstead being considered as being entitled to One Moiety only of the Quantity of Land which shall be allotted as the Proportion of each Messuage or Cottage), and the remaining Three Fifth Parts of the said Common and Commonable Droves and Waste Lands amongst and unto His Majesty, and His said Lessee, and the other Owners and Proprietors of Lands and Grounds in the said several Parishes of *Holbeach* and *Whaplode* who are entitled to such Common Right, Messuages, or Cottages as aforesaid, in Proportion and according to the Value of their said respective Lands and Grounds: Provided always, that in such Division and Allotment of the Droveways and other Waste Lands (excepting the said Common called *Holbeach* and *Whaplode Common*), all such of the said Droveways and Waste Lands as are ascertained and known to lie within the said Parish of *Holbeach*, shall be divided, set out, and allotted exclusively amongst and unto the Proprietors of Messuages, Cottages, Toftsteads, Lands, and Hereditaments in the said Parish of *Holbeach* having Right of Common, in the several Proportions and Manner aforesaid; and all such of the said Droveways and Waste Lands (except as aforesaid) as are ascertained and known to be within the said Parish of

Whaplode, shall be divided, set out, and allotted exclusively amongst and unto the Proprietors of Messuages, Cottages, Toftsteads, Lands, and Hereditaments in the said Parish of *Whaplode* having Right of Common, in the several Proportions and in Manner aforesaid.

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

XXXI. 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, the said Commissioners shall give Notice in Manner aforesaid of some convenient Time and Place when and where the said Proprietors may be informed of such intended Allotments, and see the Scheme thereof set out and delineated upon a Map or Plan thereof, to be produced for their Inspection; and as some Proprietors may, upon Inspection of such Map, be dissatisfied with the intended Allotments or the Situation thereof, 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, as soon after as conveniently may be, determine the same, and their Determination shall be final and conclusive upon all Parties.

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

XXXII. And be it further enacted, That in case any Proprietor or Proprietors of any Lands, Tenements, or Hereditaments within the said several Parishes of *Holbeach* and *Whaplode* 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 or 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.

Where Commissioners shall not have made distinct Allotments for Lands, &c. holden by different Titles, they may declare the same by Deed, after making their Award.

XXXIII. And be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments which shall be allotted by virtue of this or the said recited Act of the Forty-first Year of His present Majesty shall hold his, her, or their Lands and Hereditaments for different Estates, or by different Tenures, and where, from the Want of the necessary Information before the said Commissioners, or from any other Cause, their Award shall have omitted to distinguish and ascertain the Lands or other Hereditaments holden for each of such Estates and by each of such Tenures, and the setting out and awarding of several and distinct Allotments for such respective Lands or other Hereditaments as herein is required, and within Twelve Calendar Months after making the said Award, Request shall be made to the said Commissioners by any Person or Persons interested, by Writing under his, her, or their Hand or Hands, to have such Omission supplied by a separate Instrument, then and in every such Case the said Commissioners are hereby authorized to do every Thing necessary for supplying such Omission; and so far as that Purpose shall require, to examine Witnesses, and in every other respect to proceed and act as if their Award had not been made; and when

when they ſhall have obtained what they ſhall think ſufficient Information, they are hereby alſo authorized, by any Deed under their Hands and Seals, to diſtinguiſh and aſcertain the Difference of ſuch Eſtates and Tenures reſpectively, and accordingly to make diſtinct and ſeveral Allotments in the ſame Manner as is hereby required, where ſuch Diſcrimination ſhall be contained in the ſaid Award; and every ſuch ſeparate Inſtrument ſhall be inrolled in the ſame Place, and Evidence thereof ſhall be given in the ſame Manner as by the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty and this Act, or either of them, is directed concerning the ſaid Award; and all reaſonable Expences incurred in or about ſuch ſeparate Inſtrument as aforeſaid, ſhall be payable by the Perſon or Perſons who ſhall have requeſted the ſaid Commiſſioners to make and execute the ſame, or by his, her, or their Heirs, Executors, or Adminiſtrators; and every ſuch ſeparate Inſtrument ſhall, from and immediately after the due Execution thereof by the ſaid Commiſſioners, have the ſame Effect, to all Intents and Purpoſes, as if the Contents thereof had been inſerted and contained in their ſaid Award; and the ſame ſhall, after ſuch Inrolment as aforeſaid, be delivered to the Perſon or Perſons upon whoſe Requeſt any ſuch Omiſſion ſhall have been ſupplied, or to the Perſon or Perſons to whom the Cuſtody of the Deeds and Writings concerning the Title to the Premiſes in Queſtion, ſhall in the Opinion of the ſaid Commiſſioners moſt properly belong.

Allotments to adjoin old Incloſures.

XXXIV. Provided always, and be it further enacted, That in the ſetting out of the ſeveral Allotments in the ſaid Commons called *Holbeach* and *Whaplode Commons*, regard ſhall be had to the Situation and Contiguity of the old incloſed Lands in the ſaid reſpective Pariſhes of *Holbeach* and *Whaplode*; and that the Allotments in the ſaid Common in reſpect of the Meſſuages, Cottages, Lands, and Hereditaments in each of the ſaid Pariſhes, ſhall be laid together, and as contiguous to the old incloſed Lands in the ſame Pariſhes as conveniently may be.

Allotments to be ſet out for Proprietors of Eſtates in Holbeach and Whaplode, to be Part of the Pariſh to which they may be allotted.

XXXV. And be it further enacted, That ſuch Parts of the ſaid Common and other Commonable Droves and Waſte Lands as ſhall be allotted under or by virtue of the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, or of this Act, unto and for the Uſe and Benefit of His Majeſty and His ſaid Leſſee, and the other Owner or Owners, Proprietor or Proprietors of any Meſſuages, Cottages, Toftſteads, Lands, and Hereditaments, in either of the ſaid Pariſhes of *Holbeach* and *Whaplode*, ſhall from the Time of fencing and ſetting out ſuch Allotment and Allotments reſpectively be for ever deemed and taken to all Intents and Purpoſes whatſoever to be within and Part of the ſame Pariſh in which the Meſſuages, Cottages, Toftſteads, Lands, and Hereditaments, in Right whereof ſuch Allotment or Allotments ſhall be made are ſituated; and the ſaid Commiſſioners ſhall by ſome Writing under their Hands, or by their ſaid Award, declare and ſpecify to which of the ſaid Pariſhes ſuch Allotments reſpectively do belong.

Fencing Allotments.

XXXVI. And be it further enacted, That the ſeveral Allotments to be made by virtue of this Act ſhall be fenced by and at the Expence of the ſeveral Proprietors to whom the ſame ſhall be reſpectively allotted, and the Fences at all Times for ever thereafter repaired and maintained by and at the Expence of ſuch Proprietors reſpectively, and in ſuch Proportion and

and Manner as the ſaid Commiſſioners ſhall in and by their Award, or any other Writing under their Hands direct or appoint; and in caſe any Perſon or Perſons to whom any Allotment or Allotments ſhall be ſet out as aforeſaid, ſhall neglect or refuſe to incloſe the ſame within ſuch Time, and in ſuch Manner as the ſaid Commiſſioners ſhall in their ſaid Award, or by any other Writing under their Hands direct or appoint, then and in ſuch Caſe it ſhall be lawful for the Commiſſioners ſetting out the ſame, to enter into and upon, and incloſe and fence the ſame, and to let and ſet to any Perſon or Perſons whomſoever, the Land ſo as aforeſaid to be allotted to ſuch Perſon or Perſons as ſhall have ſo refuſed or neglected to make ſuch Fences thereon, as by the ſaid Award or Writing ſhall be directed to be made, and to hold and enjoy the ſame until the ſame Commiſſioners ſhall, out of the Rents and Profits thereof or otherwiſe on account thereof, have received and taken to themſelves ſo much Money as ſhall be neceſſarily expended in and about incloſing ſuch Land, and a reaſonable Allowance for their Trouble, and all Charges attending the ſame; and until ſuch Incloſure and Fence ſhall be completed, it ſhall not be lawful for any ſuch Perſon or Perſons ſo neglecting or refuſing as aforeſaid, or his, her, or their Tenant or Tenants, to ſue for or recover any Damage which he, ſhe, or they may ſuſtain by the Eſtray of any other Perſons, Beaſt or Beaſts, Cattle or Sheep into ſuch Allotment, or to impound ſuch Beaſt or Beaſts, Cattle or Sheep ſo eſtraying as aforeſaid: Provided always, that convenient Openings ſhall be left in the ſaid Fences and Incloſures for ſuch Space of Time as the ſaid Commiſſioners ſhall by any Writing under their Hands direct and appoint, for the Paſſage of Cattle and Carriages in, by, and through the ſame, unleſs the ſeveral Parties intereſted therein ſhall agree that the ſame ſhall be ſooner made up and incloſed.

Convenient Gaps to be left in the Fences.

XXXVII. And be it further enacted, That all Allotments of Land or Ground which ſhall be ſet out and allotted by the Authority and in purſuance of this Act, or the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, ſhall be held by and under the ſame Tenures, Rents, Cuſtoms, and Services, as the Lands, Tenements, or other Property in reſpect of which ſuch Allotments ſhall be made are and have heretofore been holden reſpectively.

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

XXXVIII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners to ſet out, allot, and award any of the Allotments to be made by virtue of this Act, or any Part or Parts of ſuch Allotments, or any Meſſuages, Lands, Tenements, or other Hereditaments ſituate or ariſing within the ſaid Pariſhes of *Holbeach* and *Whaplode*, in lieu of and exchange for any other Meſſuages, Lands, Tenements, or other Hereditaments ſituate or ariſing within the ſame Pariſhes, or any adjoining Pariſh or Place, ſo as every ſuch Exchange be aſcertained, declared, and ſet forth in the Award of the ſaid Commiſſioners, or in ſome Inſtrument to be executed by them before the Execution of the Award, and to be ſet forth or referred to in ſuch Award, and be made with the Conſent and Approbation of the reſpective Proprietors, or other Perſon or Perſons, Bodies Politic, Corporate, or Collegiate, ſeiſed or poſſeſſed or in Receipt of the Rents or other Profits of the Hereditaments which ſhall be ſo exchanged, whether ſuch Proprietor or Proprietors be Tenant or Tenants in Fee Simple, in Tail, or for Life, or for Years determinable on a Life or Lives, or by and with the Conſent of the Huſbands, Truſtees or Guardians,

Power of Exchange.

dians, Committees or Attornies of or for any such Proprietors, who at the Time of making any such Exchange shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity of acting for themselves, or of the major Part of the Trustees for any charitable or public Use respectively; and so as every such Exchange of Lands, Tenements, or Hereditaments holden in Right of any Church, Chapel, or other Ecclesiastical Benefice, be made with the Consent of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments shall lie or be situate, and the Patron or Patrons thereof for the Time being, such Consents to be respectively testified by Writing under the Hands of the consenting Parties, or under the Common Seal of any of them, being a Corporation Aggregate; and that every such Exchange so to be made and declared, shall as well in respect of the Hereditaments within the said Parishes of *Holbeach* and *Whaplode*, as in respect of the Hereditaments within any such other Parish or Place as aforesaid, be for ever good, valid, and effectual in the Law to all Intents and Purposes whatsoever.

Allotments to be made to Lessors who shall make Compensation to Lessees for their Interests.

XXXIX. Provided always, and be it further enacted, That the Allotments to be set out and made by virtue of this Act, in Right of any Property under Lease at Rack Rent, shall be allotted and set out to the respective Lessors or Landlords, and shall be held and enjoyed by them free from all Right and Interest of their respective Lessees or Tenants, and such respective Lessors or Landlords, their Heirs or Assigns, or the Persons seised of their Estates for the Time being, shall make such Abatement out of the Rents reserved by such Leases respectively, or such other Compensation or Satisfaction on account of the Determination of the Common Right comprized therein, as the said Commissioners shall judge reasonable, and shall in and by their Award or other Writing under their Hands, ascertain, direct, or appoint.

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

XL. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend to revoke, make void, annul, or alter any Settlement, Deed, or Will, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent Charge, Debt, or Incumbrance whatsoever in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments hereby directed to be divided and allotted, 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 and other Hereditaments which shall be assigned and taken in Exchange or in Compensation for any other Estate or Right, shall immediately after such Allotment, Exchange, or Assignment shall be made, be vested, remain, and enure; and His Majesty and His said Lessee, and the several other 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, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, 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 been held by in case the same had not been allotted, assigned,

or exchanged, and this Act had not been made, except where any of the Provisions of this Act shall be to the contrary.

Right of Common may be sold separate from Houses, &c. and Allotments before Execution of Award.

XLI. And be it further enacted, That it shall and may be lawful for any Person and Persons who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell, mortgage, demise, limit, surrender, convey, and assure the same, for all or any Part of his, her, or their Estate and Interest therein or Right thereto, at any Time before the Execution of the Award of the said Commissioners; and every such Gift, Grant, Bargain, Sale, Mortgage, Demise, Limitation, Surrender, Conveyance, and Assurance shall be of the same force and validity as if made after the Execution of the said Award; and also that it shall be lawful for any of the Owners or Proprietors of any Right of Common upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, to sell and dispose of, convey and assure the same, and the Allotment or Allotments to be made and set out in respect thereof by virtue of this Act, separate and distinct from the Estate in Right of which he or she is entitled to the same, in such Manner as he or she might have done at any Time after the Execution of the said Award; and it shall be lawful for the said Commissioners and they are hereby authorized and empowered to award all and every such Allotment or Allotments which shall be so sold and disposed of, or be made and set out in lieu of any Common Right so sold or disposed of, to any Purchaser or Purchasers thereof, or other Person or Persons who shall be entitled to the same by virtue of any such Sale or Disposition.

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

XLII. 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.

Allowance to Commissioners.

XLIII. And be it further enacted, That out of the Money which shall be raised for defraying the Expences of obtaining and executing this Act, there shall be paid to each and every of the said Commissioners the Sum of Three Guineas and no more, for each and every Day he shall be employed therein, and such Sum of Three Guineas shall be in full Satisfaction for his Time and Trouble, and for the several Expences he shall incur during his several Journies and Attendances in the Execution of this Act.

Deficiency, if any, to be made good by a Rate.

XLIV. Provided always, and be it further enacted, That in case the Money arising by the said Sale or Sales herein-before directed and authorized to be made, shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Common, and other Commonable Droves and Waste Lands, 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 of the Forty-first Year of His present Majesty.

To lay Accounts before a Justice.

XLV. And be it further enacted, That Once at least in every Year during the Execution of this Act, (such Year to be computed from the Day of the passing thereof), the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before One of His Majesty's Justices of the Peace acting within the Parts of *Holland* in the same County (not interested as aforesaid), to be by them examined and balanced, and such Balance shall be by such Justice stated in the Book of Accounts to be kept in the Office of the Clerk 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 have been duly allowed by such Justice.

Tenants for Life, &c. may borrow Money and charge Allotments.

XLVI. And be it further enacted, That it shall be lawful for any Proprietor or Proprietors of any Allotment or Allotments to be made by virtue of this Act, or of any ancient inclosed Lands, being Tenant or Tenants for Life or Lives, or in Tail, and also for any Husbands, Guardians, Trustees, Committees, or Attornies, or any Persons acting as Guardians, Trustees, Committees, or Attornies of any of the said Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable of acting for themselves, and to and for the Lessee or Lessees of any Corporation, Sole or Aggregate, except as in the Proviso next following is excepted, and to and for any Mortgagees, Trustees, or other Persons in Possession, or any of them, by and with the Consent and Approbation of the said Commissioners, to be testified by Writing under their Hands and Seals from Time to Time after such Allotments and Divisions shall be made and published as aforesaid, and either before or after the Execution of the said Award, to charge the Lands and Grounds which shall be allotted to such Proprietors respectively by virtue of this Act, with any Sum or Sums of Money for and towards the respective Portions of the Rate or Rates herein-before authorized to be made upon the said Proprietors, for making up any such Deficiency in the Money produced by Sales or otherwise as aforesaid, and also the Expences of inclosing, ditching, and fencing their respective Allotments, not exceeding Five Pounds for each Acre of the Lands and Grounds so to be allotted; and for securing the Re-payment of such Sum or Sums of Money with Interest, to grant, mortgage, lease, or demise the said Lands and Grounds to such Person or Persons as shall advance any Sum or Sums respectively, or to any other Person or Persons they shall respectively by Writing under their respective Hands direct or appoint, in Trust for themselves or otherwise, for any Term or Number of Years; so that such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition to surrender the same when such Sum or Sums of Money, with the Interest thereof, shall be fully paid and satisfied, and with a Proviso that no Person in Remainder or Reversion, who shall become entitled in Possession to the Hereditaments and Premises therein comprized, shall be liable to pay any further or larger Arrear of Interest on the Money so secured, than for Twelve Calendar Months preceding the Time at which the Title to such Possession

ſion ſhall have commenced; and every ſuch Grant, Mortgage, Leaſe, or Demiſe ſhall be good, valid, and effectual in the Law for the Purpoſes thereby intended; provided nevertheleſs, that the Leſſee or Leſſees of the Eſtates of the ſaid College of *Saint John the Evangeliſt*, and of the ſaid Four Colleges in *Cambridge*, or any of them, or any Part thereof, ſhall not have or poſſeſs the Power of charging the ſaid Eſtates, being ancient incloſed Lands, or the Lands or Grounds to be allotted to the ſaid Colleges reſpectively, with the Amount of the ſaid Rate or Rates, and Expences of incloſing, ditching, and fencing the ſaid Allotments, but the Whole thereof ſhall be paid and diſcharged by ſuch Leſſee or Leſſees, and the Proportion in which the ſame ſhall and ought to be borne and defrayed by the ſaid Colleges reſpectively, and their reſpective Leſſees, ſhall be ſettled and determined by the ſaid Commiſſioners; and the ſaid Leſſee or Leſſees ſhall have Power, and is and are hereby authorized to ſet off and retain ſo much of the Amount of the ſaid Rates and Expences as the ſaid Commiſſioners ſhall adjudge and order to be paid by the ſaid Colleges reſpectively, againſt and out of the firſt or any ſubſequent Rent or Rents that ſhall be due and payable after ſuch Adjudication and Order of the ſaid Commiſſioners, which they are hereby required to make in Writing, and deliver the ſame to the ſaid Leſſee or reſpective Leſſees as aforeſaid.

Award where to be depoſited.

XLVII. 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, or the ſaid Act of the Forty-firſt Year of His preſent Majeſty, ſhall be executed and publiſhed within the Space of Three Years from the paſſing of this Act, and 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, with the Plan thereunto annexed, be depoſited in the Pariſh Church of *Holbeach* 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.

An Extract from the Award to be tranſmitted to the Surveyor General's Office.

XLVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to make a Copy on Parchment under their Hands and Seals, of ſo much of their Award, to be made purſuant to the ſaid recited Act of the Forty-firſt Year of His preſent Majeſty, and this Act, as ſhall contain an accurate Deſcription of the Allotment or Allotments ſo to be made to His ſaid Majeſty or His Leſſee, together with ſuch Regulations or Proviſions relative to the ſaid Allotment or Allotments, or to any other Rights or Intereſts of His Majeſty or His Leſſee, as may be contained in ſuch Award, and alſo a Map or Plan of ſuch Allotment or Allotments, and tranſmit the ſame to the Commiſſioners of His Majeſty's Woods, Foreſts, and Land Revenues, or to the Surveyor General of His Majeſty's Land Revenue for the Time being, within Two Calendar Months after the making and executing the ſaid Award, to be by them or him filed and kept with and amongſt the Muniments of their or his Office, and to be produced and admitted in Evidence on all Occaſions where any Queſtion, Doubt, or Controverſy may ariſe relating to or affecting the Rights or Intereſts of His Majeſty, His Heirs, or Succeſſors.

XLIX. And

Appeal.

XLIX. 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 recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, (other than and except ſuch Claims, Matters, and Things as are herein-before directed or authorized to be aſcertained, ſettled, tried, or determined, by the Verdict of a Jury, or where by any of the Proviſions of the ſaid recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, or of this Act, the Determinations, Acts, or Proceedings of the ſaid Commiſſioners, are directed to be final and concluſive), then and in every ſuch Caſe he, ſhe, or they may appeal to the General Quarter Seſſions of the Peace which ſhall be holden in and for the Parts of *Holland* in the ſaid County of *Lincoln*, within Three Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners, or any One of them, and to the Party or Parties concerned, Twenty-one 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 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 and upon 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.

Saving Manorial Rights.

L. Provided always, and be it further enacted, That nothing in this Act contained ſhall prejudice, leſſen, or defeat, the Right, Title, or Intereſt of His Majeſty, His Heirs or Succeſſors, or other Lords or Ladies of the ſeveral Manors within the Limits and Juriſdictions whereof the Lands and Grounds hereby intended to be divided and allotted are ſituate, of, in, and to the Seigniories, Royalties, Rights, and Services incident or belonging to ſuch Manors, but that the Lords and Ladies of the ſaid ſeveral Manors ſhall and may from Time to Time, and at all Times hereafter, reſpectively hold, receive, take, and enjoy all Rents, Fines, Services, and Profits of Courts, Tolls, Stallage, Fairs, and Markets, and all other Rights and Privileges to ſuch Manors reſpectively appendant, belonging or appertaining (ſave and except as to ſuch, if any, as may be diſcharged or varied by this Act), in as full, ample, and beneficial a Manner, to all Intents and Purpoſes, as they might or ought to have held and enjoyed the ſame in caſe this Act had not been made.

Saving to the South Holland Truſtees.

LI. And be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to repeal, invalidate, leſſen, alter, or take away any of the Powers or Authorities of the Commiſſioners or Truſtees reſpectively acting under the Authority of the ſaid recited Act of

of the Thirty-third Year of His preſent Majeſty's Reign, and of an Act paſſed in the Thirty-fifth Year of the Reign of His preſent Majeſty, intituled *An Act to enable the Commiſſioners and Truſtees for executing an Act paſſed in the Thirty-third Year of the Reign of His preſent Majeſty, intituled 'An Act for draining, preſerving, and improving certain Lands lying 'in the ſeveral Pariſhes of* Spalding, (*including the Hamlets of* Cowbitt *and* 'Peakill), Weſton, Moulton, Whaplode, Holbeach, Fleet, Gedney, Sutton 'Saint Mary, *and* Sutton Saint Nicholas *otherwiſe* Lutton, *all in* South 'Holland *in the County of* Lincoln,' *to ſupport and repair a certain Bank extending from* Spalding High Bridge *to* Brother Houſe *in the ſaid County, and to amend and repair the Road thereon, and for compounding with the Creditors under an Act paſſed in the Twelfth Year of His preſent Majeſty's Reign, for making and keeping in Repair the ſaid Road.*

Act not to affect the Works of the Great Level called Bedford Level, &c.

LII. Provided always, and it is hereby further enacted, That this Act, or any Thing contained herein, ſhall not extend or be conſtrued to extend to empower the ſaid Commiſſioners, or any of them, or any other Perſon or Perſons whomſoever, to have or exerciſe any Power or Authority over, or intermeddle with any of the Sewers, Drains, or Works already made by or belonging to, or hereafter to be made by or belong to the Governor, Bailiffs, and Commonalty of the Company of Conſervators of the *Great Level* of the Fens called *Bedford Level*, or the General Commiſſioners of the *North Level*, Part of the ſaid *Great Level*, or to invalidate, leſſen, or diminiſh, alter or take away any of the Rights, Powers, or Authorities veſted in the ſaid Governors, Bailiffs, and Conſervators of the ſaid Company, by virtue of an Act made in the Fifteenth Year of the Reign of King *Charles* the Second, intituled *An Act for ſettling the draining of the* Great Level *of the Fens called* Bedford Level, or by virtue of any Act, Statute, or Charter whatſoever, or in the ſaid General Commiſſioners of the ſaid *North Level*, by virtue of any Act whatſoever; but that all Rights, Powers, and Authorities whatſoever, which by virtue of the ſaid Act of the Fifteenth of *Charles* the Second, or of any other Act, Statute, or Charter whatſoever, now are veſted in the ſaid Governor, Bailiffs, and Commonalty, or in the ſaid Governor, Bailiffs, or Conſervators, or any of them, or in the ſaid General Commiſſioners of the ſaid *North Level*, ſhall for ever hereafter remain, continue, and be in the ſaid Governor, Bailiffs, and Commonalty, and in the ſaid Governor, Bailiffs, and Conſervators, and in the ſaid General Commiſſioners of the ſaid *North Level*, and every of them reſpectively, as fully and amply to all Intents and Purpoſes as if this Act had not been paſſed.

Tythes not to be affected.

LIII. Provided always, and be it further enacted and declared, That nothing herein contained ſhall in anywiſe prejudice, leſſen, or affect the Right or Title of any Perſon or Perſons, Body Politic, or Corporate whomſoever, to any Tythes or other Eccleſiaſtical Dues or Payments whatſoever, ariſing or payable within the Pariſhes of *Holbeach* and *Whaplode* aforeſaid, or either of them, but that the ſame ſhall ſeverally continue due and payable as if this Act had not been made.

General Saving.

LIV. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every other Perſon and Perſons, Bodies Politic, Corporate, or Collegiate, his, her, and their Heirs and Succeſſors, Executors, Adminiſtrators, and Aſſigns, (other than and except the

several Persons claiming Rights of Common, and other Rights and Interests in, over, or upon the said Common and other Commonable Droves and Waste Lands hereby directed to be divided and allotted, or any Part thereof; and also His said Majesty, and the several other Persons to whom any Allotment or Allotments shall be made in respect of the Interest or Property for which such Allotments shall be made, and except such other Rights and Interests as the Intent and Purpose of the Inclosure hereby authorized, shall absolutely require to be barred, destroyed, or extinguished by this Act, and all Persons respectively claiming under them or in Remainder after them), all such Estates, Rights, and Interests, as they, every, or any of them, had or enjoyed of, in, to, or in respect of the said Common and other Commonable Droves and Waste Lands hereby directed to be divided, allotted, and inclosed before the passing of this Act, or could or might have had or enjoyed in case this Act had not been made.

Act to be printed by the King's Printer.

LV. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty, duly authorized to print the Statutes of the United Kingdom, and that a Copy thereof, so printed by any of them, shall be admitted as Evidence by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1812.