ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 18.

An Act for incloſing and draining Lands in the Pariſh of *Horſey*, in the County of *Norfolk*.

[20th *March* 1812.]

WHEREAS there are, within the Pariſh of *Horſey*, in the County of *Norfolk*, certain Open Fields, Commons, Fens and Waſte Grounds, Part of which ſaid Commons and Waſte Grounds is occupied as a Warren for the planting, breeding, and depaſturing Conies or Rabbits thereon: And whereas Sir *George Berney Brograve* Baronet, is Lord of the Manor of *Waxham*, alias *Waxſtoneſham Horſey* and *Palling*, in the ſaid County of *Norfolk*: And whereas *Robert Riſing* Eſquire, claims to be entitled to the Soil of the ſaid Commons, Warren, Fens, and Waſte Grounds, and to the ſole Right of Fiſhery in the Waters of the ſaid Pariſh of *Horſey*: And whereas the ſaid *Robert Riſing* and his Tenants claim the ſole and excluſive Right or Privilege of planting, breeding, and depaſturing Conies or Rabbits in and upon the Warren in the ſaid Pariſh of *Horſey*, being Part of the ſaid Commons and Waſte Grounds, and of taking and killing the ſame for his or their own Uſe: And whereas the Right Reverend *Henry* Lord Biſhop of *Norwich*, the Right Honourable *William Aſſheton* Lord *Suffield*, Sir *Thomas Durrant* Baronet, *John Berney Petre* Eſquire, *Robert Marſham* Eſquire, *Thomas Cooper* Eſquire, *Robert Lee Doughty* Eſquire, and *Thomas Hammont Cooper* Eſquire,

Eſquire, as Governors or Truſtees of the Free School of *North Walſham* in the ſaid County, of the Foundation of Sir *William Paſton* Knight, deceaſed, are entitled to the Impropriate Rectory of *Horſey*, and are Patrons of the Vicarage of *Horſey* aforeſaid; and the Reverend *Henry Hunter* is the preſent Vicar thereof: And whereas the ſaid *Robert Riſing*, the ſaid Governors or Truſtees, and *William Riſing*, and other Perſons, are Owners of the Meſſuages, Cottages, Lands, Tenements, and Hereditaments, within the ſaid Pariſh of *Horſey*: 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 a Part of the ſaid Open Fields, Marſh Lands, Commons, Warren, Fens, and Waſte Grounds, are frequently overflowed with Water, and in their preſent State and Condition, for want of ſufficient Drainage, yield but little Profit to the Perſons intereſted therein: And whereas it would be advantageous to the Perſons intereſted, if the ſaid Open Fields, Commons, Warren, Fens, and Waſte Grounds, were divided, and ſpecifick Parts or Shares thereof aſſigned and allotted unto and amongſt the ſeveral Perſons entitled thereto and intereſted therein, according to their reſpective Shares, Rights, and Intereſts; and if the ſaid Open Fields, Marſh Lands, Commons, Warren, Fens, and Waſte Grounds, being ſo liable to be overflowed with Water, were embanked and drained; but as ſuch Diviſion, Allotment, Embankment, and Drainage, cannot be effected without the 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,

Commiſſioner. That *Robert Cory* the younger, of *Great Yarmouth*, in the County of *Norfolk*, Eſquire, and his Succeſſor to be elected in Manner herein-after mentioned, ſhall be and he is hereby appointed ſole Commiſſioner for dividing and allotting the ſaid Open Fields, Commons, Warren, Fens, and Waſte Grounds, and for carrying this Act and the ſaid recited Act into Execution, ſubject to the Rules, Orders, and Directions herein contained, and alſo ſubject to the Powers and Proviſions of the ſaid recited Act, except where the ſame are altered, varied, or otherwiſe provided for by this Act.

Appointing new Commiſſioner. II. And be it further enacted, That if the ſaid *Robert Cory*, or any other Commiſſioner to be appointed in Manner herein-after mentioned, ſhall die, refuſe, or become incapable to act in the Execution of this and the ſaid recited Act, before all the Powers and Authorities hereby and by the ſaid recited Act veſted in him ſhall be fully executed and performed, then and in every ſuch Caſe it ſhall and may be lawful for the major Part in Value (to be aſcertained by the Land Tax Aſſeſſment) of the ſeveral Proprietors of Eſtates and Perſons intereſted in the ſaid intended Diviſion and Allotment, who ſhall attend by themſelves or their Agents or Attornies at a Meeting to be held for that Purpoſe at ſome Place within the Pariſh of *Horſey*, of which Meeting Notice ſhall be given by Advertiſement, ſigned by Three or more of the ſaid Proprietors, and inſerted in the Newſpapers called *The Norfolk Chronicle* and *The Norwich Mercury*, or in one of them, or in ſome other Newſpaper generally circulated within the ſaid

County

County of *Norfolk*, and to be affixed on the outer Door of the Parish Church of *Horsey*, Fourteen Days at least before such Meeting shall be held, by any Instrument in Writing signed by the major Part in Value (to be ascertained as aforesaid) of the said Proprietors or Persons interested, or his, her, or their Attornies or Agents duly authorized, present at such Meeting, from Time to Time to appoint some other fit and proper Person (not being interested in the Premises) to be a Commissioner for the Purpose of carrying this and the said recited Act into Execution, in the Place of such Commissioner so dying, refusing, or becoming incapable to act as aforesaid; and every Person so to be appointed a Commissioner shall take and subscribe the Oath or Affirmation prescribed in the said recited Act, and shall thereupon have the like Powers and Authorities in all Respects for carrying this and the said recited Act into Execution, and shall be subject to the same Rules, Orders, and Regulations, as if he had been appointed a Commissioner in and by this Act.

Notice of Meetings, and other Notices how to be given.

III. And be it further enacted, That the said Commissioner shall and he is hereby required to give Notice of the Time and Place of his first and every other Meeting for the Execution of this and the said recited Act, to be inserted in the said Newspapers called *The Norfolk Chronicle* and *The Norwich Mercury*, or in one of them, or in some other Newspaper circulated within the said County, Eight Days at least before every such Meeting, (Meetings by Adjournment only excepted,) and it shall and may be lawful for the said Commissioner (and if he shall not attend at such Meeting, then for the Clerk to the said Commissioner) from Time to Time to adjourn such Meeting to such Time and Place, within the said Parish of *Horsey*, or within Eight Miles thereof, as he shall think most convenient: Provided always, that all other Notices necessary or requisite to be given by the said Commissioner, in pursuance of this or the said recited Act, shall be given by Advertisement to be inserted in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper generally circulated within the said County of *Norfolk*.

Old Survey may be used.

IV. And be it further enacted, That if any Map, Plan, Survey, and Admeasurement of the said Parish of *Horsey*, shall be produced to the said Commissioner, and the same shall be in his Judgement and to his Satisfaction a just and true Map, Plan, Survey, and Admeasurement, and proper to be used for the Purpose of carrying this and the said recited Act into Execution, it shall be lawful for the said Commissioner to contract for and purchase the same at and for such Sum of Money as he shall think reasonable, and such Purchase Money shall be considered as Part of the Costs, Charges, and Expences of carrying this and the said recited Act into Execution, and shall be raised, levied, and paid accordingly; and after such Contract and Purchase, the said Commissioner, and the Surveyor to be appointed by him, are hereby authorized and required to use any such Map, Plan, Survey, and Admeasurement, so contracted for and purchased as aforesaid, for the Purpose of carrying this and the said recited Act into Execution, without causing any new Map, Plan, Survey, and Admeasurement to be made of the Lands and Tenements comprized therein.

Objections to Claims.

V. And be it further enacted, That if any Perſon or Perſons, or Body Politick, Corporate or Collegiate, intereſted or claiming to be intereſted in the Premiſes, ſhall have any Objection or Objections to any Account or Claim delivered to the ſaid Commiſſioner by virtue of this or the ſaid recited Act, the Particulars of ſuch Objection or Objections ſhall be reduced into Writing, and Two Parts thereof ſhall be ſigned by the Party or Parties making the ſame, or by ſome Perſon or Perſons on his, her, or their Behalf, One Part whereof ſhall be delivered to the ſaid Commiſſioner, and the other Part thereof ſhall be delivered to the Party or Parties to whoſe Account or Claim ſuch Objection or Objections ſhall be made, or to his, her, or their Agent, or ſhall be left at the laſt or uſual Place of Abode of ſuch Party or Parties, or of his, her, or their Agent, within ſuch Time or Times as ſhall be appointed by the ſaid Commiſſioner for that Purpoſe, and no Objection ſhall afterwards be received unleſs for ſome Diſability or ſpecial Cauſe to be allowed by the ſaid Commiſſioner.

Commiſſioner to ſettle Differences, but not to determine Titles.

VI. And be it further enacted, That if any Diſpute or Difference ſhall ariſe between any of the Parties intereſted or claiming to be intereſted in the ſaid intended Diviſion or Allotments, touching or concerning the Rights, Intereſts, Shares, or Proportions which they, or any of them, ſhall claim to have of and in the Lands and Grounds hereby directed to be divided and allotted, or concerning any other Matter or Thing whatſoever relating to the ſaid Diviſion and Allotments, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby required to examine into, hear, and determine the ſame: Provided always, that nothing in this Act contained ſhall authorize the ſaid Commiſſioner to determine the Title to any Meſſuages, Cottages, Lands, Tenements, or Hereditaments whatſoever.

Power to aſſeſs Coſts.

VII. And be it further enacted, That in caſe the ſaid Commiſſioner, upon the Hearing and Determination of any Claim or Objection to be delivered to him in purſuance of this or the ſaid recited Act, ſhall ſee cauſe to award any Coſts, it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby empowered upon Application made to him for that Purpoſe, to ſettle, aſſeſs, and award, ſuch Coſts and Charges as he ſhall think reaſonable, to be paid to the Party or Parties in whoſe Favour any Determination of the ſaid Commiſſioner ſhall be made, by the Perſon or Perſons, Body or Bodies Politick, Corporate or Collegiate, whoſe Claim or Claims, Objection or Objections, ſhall be thereby diſallowed or overruled, or againſt whom the ſaid Commiſſioner ſhall have determined as aforeſaid; and in caſe the Perſon or Perſons, Body or Bodies Politick, 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 every 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 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 Politick, Corporate or Collegiate, ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand, to the Perſon or Perſons, Body or Bodies Politick, Corporate or Collegiate, whoſe Goods and Chattels ſhall have

have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing Parties to try Rights by an Issue at Law.

VIII. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politick, Corporate or Collegiate, interested or claiming to be interested in the intended Division or Allotments, shall be dissatisfied with any Determination of the said Commissioner, touching or concerning any Claim or Claims of Right to the Soil of the said Commons, Warren, Fens, and Waste Grounds, or of any Rights of Common, or other Rights or Interests, in, over, or upon the Open Fields, Commons, Warren, Fens, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, and shall, by Writing under his, her, or their Hand or Hands, signify such Dissatisfaction to the said Commissioner within Thirty Days next after his Determination shall be made and declared, it shall be lawful for the Person or Persons, or Body or Bodies Politick, Corporate or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next or the following Assizes to be holden for the said County of *Norfolk*; and for that Purpose the Person or Persons, or Body or Bodies Politick, Corporate or Collegiate, who shall be dissatisfied with the Determination of the said Commissioner, shall cause an Action to be brought upon a feigned Issue, against the Person or Persons in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required 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 such Claim or Claims, Objection or Objections, and the Rights or Interests thereby insisted on, may be tried and determined at the said first or second Assizes, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions, shall be final, binding, and conclusive, upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts and order a new Trial to be had therein, which it shall be lawful for the said Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall and he is hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims, Objection or Objections, Right or Interest thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action shall be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioner shall be binding and conclusive to all Intents and Purposes whatsoever: Provided also, that if any of the Parties in any such Action, to be commenced as aforesaid, shall die before the Determination thereof, such Action shall not abate by Reason thereof, but shall be proceeded in as if no such Event had happened.

If no Action brought, or not proceeded in, Determination of Commissioner to be final.

If Parties die Proceedings not to abate.

Provisions in case of Death of Parties before Action brought.

IX. 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 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 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.

Right of Possession of Persons not to be determined by Commissioner.

X. 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 of the Parties, contrary to the Possession of such Parties, (except in Cases of Encroachments made within the Period of Thirty Years as herein-after mentioned,) but if 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.

For ascertaining Boundaries.

XI. And be it further enacted, That the said Commissioner shall and he is hereby required, with all convenient Speed after the passing of this Act, to cause Notice of his Intention to perambulate the Boundaries of the said Parish of *Horsey*, to be inserted in the said *Norfolk Chronicle*, or the said *Norwich Mercury*, or in some other Newspaper generally circulated within the said County of *Norfolk*, Ten Days at least before the Time of such Perambulation, and at the Time specified in such Notice, he the said Commissioner is hereby authorized and required to perambulate, enquire into, ascertain, set out, determine, and fix the Boundaries of the said Parish of *Horsey*, and after the said Boundaries shall be so ascertained, set out, determined, and fixed, the same shall and are hereby declared to be the Boundaries of the said Parish; and the said Commissioner shall, within Forty Days after his ascertaining and setting out the said Boundaries, cause a Description thereof to be inserted in the said *Norfolk Chronicle*, or the said *Norwich Mercury*, or in some other Newspaper generally circulated within the said County of *Norfolk*: Provided always,

Appeal to Sessions against Boundaries.

that if any Person or Persons, interested in the Determination of the said Commissioner respecting the said Boundaries, shall be dissatisfied with such Determination, such Person or Persons may appeal to the Justices of the Peace acting in and for the said County of *Norfolk*, at any General Quarter Sessions of the Peace to be held within Four Calendar Months next after the aforesaid Publication of the said Boundaries, (the Party or Parties making

making such Appeal giving Ten Days Notice in Writing of such Appeal, and of the Matter thereof, to the said Commissioner,) and the Decision of the said Justices therein shall be final and conclusive, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

For shortening Boundary Fences.

XII. And, in order to shorten the Boundary Fences between the Lands and Grounds hereby directed to be divided and inclosed and any adjoining Parish or Parishes, be it further enacted, That it shall and may be lawful to and for the said Commissioner, with the Consent in Writing under the Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors in any such adjoining Parish or Parishes, and also under the Hand or Hands of the Owner or Owners of the Lands upon which such Fence or Fences are intended to be made, to set out, ascertain, and determine the Boundary Fences to be made between the Lands and Grounds hereby intended to be divided and inclosed, and the Lands lying in such adjoining Parish or Parishes, in such Manner as he shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be set out, ascertained, and determined as aforesaid, the same shall be fenced by such Person or Persons, in such Manner and at such Time or Times, as the said Commissioner shall in and by his Award order and direct, and shall be for ever thereafter deemed and taken to be the Boundaries between the Lands and Grounds hereby intended to be divided and inclosed and such adjoining Parish or Parishes; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Limitation of Rights of Common.

XIII. And be it further enacted, That all Persons having Houses or Tenements in the said Parish of *Horsey* which have been erected Thirty Years, and in respect of which a Right or Rights of Common upon the said Commons, Warren, Fens and Waste Grounds, have been exercised during that Time without Interruption, shall, on their preferring their respective Claims in Manner herein-after mentioned, have and be deemed to have a Right or Rights of Common, in, over, or upon the same, in respect of such Houses or Tenements; and that the Owners of Lands in the said Parish of *Horsey* which have not within Sixty Years now last past been Part or Parcel of the said Commons, Warren, Fens or Waste Grounds, and for which a Right of Common shall or may have been exercised thereupon, or upon any of them, at any Time within such Period of Sixty Years as aforesaid, shall, on their delivering their respective Claims in like Manner, have and be deemed to have a Right of Common thereon for their Commonable Cattle levant and couchant upon their respective Lands.

Respecting Encroachments.

XIV. And be it further enacted, That all Encroachments which at any Time within Thirty Years now last past have been made upon the said Open Fields, Commons, Warren, Fens, and Waste Grounds hereby directed to be divided and allotted, shall be deemed Part thereof, and divided and allotted accordingly, and that no Person or Persons in Possession of any Lands, Commons, or Waste Grounds, which have been inclosed within the Time aforesaid, or of any Cottage or Tenement which shall have been erected in the said Parish within the like Time, shall be

entitled to any Allotment in reſpect thereof, or of either of them, under or by virtue of this Act; and in caſe any Diſpute ſhall ariſe touching any ſuch Encroachment or the Extent thereof, or touching ſuch Cottages or Tenements, ſuch Diſputes ſhall be heard and finally determined by the ſaid Commiſſioner.

Power to ſell Encroachments where Houſes are erected.

XV. And be it further enacted, That in caſe any Cottages or other Buildings ſhall have been erected upon any of the ſaid Commons, Warren, Fens, and Waſte Grounds, or upon any Encroachment which ſhall have been made within Thirty Years now laſt paſt, then the ſaid Commiſſioner is hereby authorized and empowered, in caſe he ſhall think fit, to make Sale and diſpoſe of ſuch Encroachments whereon ſuch Cottages or other Buildings ſhall ſtand, or ſuch other Parts of the ſaid Commons and Waſte Grounds in lieu thereof, as the ſaid Commiſſioner ſhall think moſt proper and convenient, not exceeding the Quantity of ſuch Encroachments, to the Owners of ſuch Cottages or other Buildings, or any of them reſpectively, at ſuch Price or Prices as the ſaid Commiſſioner ſhall deem fair and reaſonable, and in and by his Award to ſet out and allot the ſame to ſuch Purchaſer or Purchaſers, his, her, or their Heirs accordingly; and the Monies ariſing from ſuch Sale or Sales ſhall be applied in and towards the Payment of the Expences attending the paſſing and executing of this Act: Provided always, that if there ſhall be any Surplus of ſuch Monies, the ſame ſhall be applied and diſpoſed of in Manner directed by the ſaid recited Act in Caſes where Money is to be paid for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and is required to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

No Turf, &c. to be cut without Leave of Commiſſioner.

XVI. And be it further enacted, That if any Perſon or Perſons ſhall, after paſſing this Act, cut, dig, pare, grave, flay, or carry away the Whins or Furze, Reeds, Ruſhes, Fodder, Maram, Turf, or Flags, in, upon, or from the ſaid Commons, Warren, Fens, and Waſte Grounds, or any Part thereof, without or contrary to 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 under ſuch Rules, Orders, and Regulations, as he ſhall think proper to inſert therein,) then and in every ſuch Caſe it ſhall be lawful to and for any Juſtice of the Peace for the ſaid County of *Norfolk*, upon due Proof thereof made before him on the Oath of any credible Witneſs or Witneſſes, (which Oath ſuch Juſtice is hereby empowered to adminiſter,) to commit every ſuch Offender to the Common Gaol or Houſe of Correction for any Time not exceeding Three Calendar Months.

For extinguiſhing or ſuſpending Rights of Common.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized, at any Time before the Execution of his ſaid Award, by Writing under his Hand, to be affixed upon the principal Door of the Church of *Horſey* aforeſaid, to order and direct all or any Part of the Rights of Common in, over, or upon the ſaid Commons, Warren, Fens, and Waſte Grounds, or any Part thereof, to be extinguiſhed, or the Exerciſe thereof to be ſuſpended for and during ſuch Time as ſhall be expreſſed in ſuch Writing, and that all ſuch Rights of

of Common as the ſaid Commiſſioner ſhall by ſuch Writing order and direct to be extinguiſhed, or the Exerciſe thereof to be ſuſpended as aforeſaid, ſhall, from the Time of affixing ſuch Writing on the ſaid Church Door, ceaſe, determine, and be extinguiſhed, or the Exerciſe thereof be ſuſpended accordingly; any Law, Uſage, or Cuſtom, to the contrary notwithſtanding.

Commiſſioner may ſtop up Roads, &c.

XVIII. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby authorized and empowered, (with the Concurrence and Order of Two Juſtices of the Peace for the ſaid County of *Norfolk*, acting in and for the Diviſion in which the Road or Roads, Footpath or Footpaths herein-after mentioned ſhall be ſituate, and not intereſted in the Repair of ſuch Road or Roads, Footpath or Footpaths,) to ſtop up and to direct to be diſcontinued any publick Road or Roads, Footpath or Footpaths, through any Part or Parts of the Lands or Grounds in the ſaid Pariſh of *Horſey*, which to the ſaid Commiſſioner ſhall appear to be uſeleſs or unneceſſary: Provided always, that ſuch Order ſo made by ſuch Juſtices ſhall be ſubject to an Appeal to the Quarter Seſſions, in like Manner and under the ſame Forms and Reſtrictions as if the ſame had originally been made by the Order of ſuch Juſtices: Provided always, that none of the preſent Roads or publick Highways within the ſaid Pariſh of *Horſey*, ſhall be ſhut up or diſcontinued until the ſaid Commiſſioner ſhall have cauſed the publick Roads to be ſet out in Manner directed by the ſaid recited Act, and until the ſaid new publick Roads ſhall be properly formed and made ſafe and convenient for Horſes, Cattle, and Carriages.

Allotments for the Poor.

XIX. And be it further enacted, That the ſaid Commiſſioner ſhall, after he has ſet out and appointed the publick Carriage Roads and Highways through and over the Lands and Grounds intended to be divided, allotted, and incloſed by virtue of this Act, aſſign, ſet out, and allot unto the Vicar, Churchwardens, and Overſeers of the Poor of the ſame Pariſh, ſuch Parts of the ſaid Commons, Fens, and Waſte Grounds, as in the Judgement of the ſaid Commiſſioner ſhall be equal in Value to Fifteen Acres, of the Average Value of the ſaid Commons and Waſte Grounds, and ſuch Allotment or Allotments ſhall be, on the Execution of the Award of the ſaid Commiſſioner, veſted in the Vicar, Churchwarden, and Overſeers of the Poor of the ſaid Pariſh for the Time being, for ever, as Truſtees for the Poor of the ſame Pariſh; and the ſaid Truſtees, or the major Part of them, are hereby empowered from Time to Time, by any Writing or Writings under their Hands and Seals, to leaſe or demiſe any Part or Parts of the ſaid Allotment or Allotments, to any Perſon or Perſons whomſoever, from Year to Year, or for any Term of Years not exceeding Fourteen Years, in Poſſeſſion and not in Reverſion, ſo that in every ſuch Leaſe there be reſerved and made payable to the Truſtees for the Time being, or the major Part of them, by Two equal Half-yearly Payments, the moſt improved yearly Rent or Rents that can be obtained for the ſame, without taking any Income, Fine, Premium, or Foregift in Conſideration of granting ſuch Leaſe or Leaſes; and that in all ſuch Leaſes there be contained the uſual Covenants and Stipulations between Leſſors and Leſſees, and ſuch other Covenants and Stipulations, and ſuch Security for the Performance of the ſame, as the ſaid

ſaid Truſtees, or the major Part of them, ſhall think proper to be inſerted therein; and the Rents and Profits ariſing therefrom ſhall from Time to Time be laid out in purchaſing Fuel, and ſuch Fuel ſhall be diſtributed amongſt the poor Inhabitants of the ſaid Pariſh of *Horſey* who ſhall be legally ſettled therein, and ſhall not occupy Lands or Tenements of more than the yearly Value of Five Pounds, in ſuch Proportions and Quantities, at ſuch Times in every Year, and according to ſuch Rules and Orders, as the ſaid Truſtees for the Time being, or the major Part of them, ſhall appoint and preſcribe for that Purpoſe; and it ſhall be lawful for the ſaid Truſtees to retain and keep ſo much and ſuch Part and Parts as they ſhall think proper of the Remainder of ſuch Allotment or Allotments that ſhall not be let or demiſed as aforeſaid, for the Purpoſe of cutting Fuel, and ſuch Fuel ſhall be diſtributed in Manner as aforeſaid, and the Remainder of ſuch Allotment or Allotments, not leaſed or demiſed or uſed for the Purpoſe of cutting Fuel, ſhall be uſed and enjoyed ſolely and excluſively by ſuch poor Inhabitants of the ſaid Pariſh, who ſhall be legally ſettled and reſident therein, and ſhall not occupy Lands or Tenements of more than the yearly Value aforeſaid, as a Common of Paſture, in ſuch Manner and at ſuch Time or Times, and according to ſuch Rules and Directions as the ſaid Truſtees for the Time being, or the major Part of them, ſhall appoint and preſcribe for that Purpoſe, and not otherwiſe.

Poors Allotment free from Parochial Aſſeſſment.

XX. And be it further enacted, That from and immediately after the Execution of the ſaid Award, no Poor or Parochial Rates, Taxes or Aſſeſſments whatſoever, ſhall be paid or payable, out of or for or in reſpect of the ſaid Allotment or Allotments herein-before directed to be made for the Benefit of the Poor as aforeſaid, except the ſame be ſo leaſed or demiſed as aforeſaid: Provided always, that it ſhall be lawful to and for the ſaid Vicar for the Time being, to act in the Execution of the Truſts hereby repoſed in him by his Agent or Proxy, ſuch Agent or Proxy being appointed by Writing or Writings under the Hand of the ſaid Vicar for the Time being, and producing his Appointment at the Time of acting by virtue thereof.

Lord of the Manor, &c. to act by Proxy.

Allotment for Sand and Gravel Pits, &c.

XXI. And be it further enacted, That the ſaid Commiſſioner ſhall, in the next Place, aſſign, ſet out, and allot unto the Surveyors of the Highways within the ſaid Pariſh of *Horſey*, ſuch Part of the ſaid Commons, Warren, Fens, and Waſte Grounds hereby directed to be divided and allotted, as the ſaid Commiſſioner ſhall think neceſſary, not exceeding One Acre in the Whole, as and for the publick Sand, Gravel, Clay, and Chalk Pits, and the ſame Allotment when ſet out ſhall for ever thereafter be uſed by the Surveyors of the Highways and the Proprietors of Lands, Tenements, and Hereditaments within the ſaid Pariſh, and their Tenants for the Time being, in ſuch Manner and under ſuch Rules and Regulations as the ſaid Commiſſioner ſhall by his ſaid Award direct and appoint.

Allotment for Right of Soil.

XXII. And be it further enacted, That the ſaid Commiſſioner ſhall, in the next Place, aſſign, ſet out, and allot unto the ſaid *Robert Riſing*, his Heirs or Aſſigns, as Owner or Owners of or being entitled to the Soil of the ſaid Commons, Warren, Fens, and Waſte Grounds, ſuch Parts of the ſaid Commons, Warren, Fens, and Waſte Grounds, as in the Judgement of the ſaid Commiſſioner ſhall be equal in Value to One-

ſeventeenth

ſeventeenth Part of the ſaid Commons, Warren, Fens, and Waſte Grounds, and ſuch Allotment, to be ſet out without any Deduction, ſhall be a full Compenſation and Recompence for the Right of the ſaid *Robert Riſing*, his Heirs or Aſſigns, in and to the Soil of the ſaid Commons, Warren, Fens, and Waſte Grounds reſpectively.

Allotment for Right of killing Rabbits.

XXIII. And be it further enacted, That the ſaid Commiſſioner ſhall then aſſign, ſet out, and allot unto the ſaid *Robert Riſing*, his Heirs or Aſſigns, ſuch Parts of the ſaid Commons, Warren, Fens, and Waſte Grounds hereby directed to be divided and allotted, as in the Judgement of the ſaid Commiſſioner ſhall be a Compenſation for and equal in Value to his or their ſole and excluſive Right of planting, breeding, depaſturing, and killing Conies or Rabbits in, over, and upon the ſaid Commons, Warren, and Waſte Grounds.

Allotment of Reſidue.

XXIV. And be it further enacted, That the ſaid Commiſſioner ſhall then ſet out and allot the Reſidue of the ſaid Commons, Warren, Fens, and Waſte Grounds hereby directed to be divided and allotted, unto and amongſt all and every the Perſon and Perſons, Body and Bodies Politick, Corporate or Collegiate, being Owner or Owners of the ſaid Lands and Grounds, or any Part thereof, or having any Right or Rights of Common, or other Rights or Intereſts in, over, or upon the ſame, or any Part thereof, in ſuch Parts and Shares as the ſaid Commiſſioner ſhall adjudge and determine to be proportionate to the Value, and a full Satisfaction and Compenſation to him, her, and them reſpectively, for his, her, and their reſpective Shares, Rights of Common, or other Rights and Intereſts in, over, or upon the ſaid Commons, Warren, Fens, and Waſte Grounds, or any Part or Parts thereof.

Perſons ſelling Common Right, Commiſſioner to allot to Purchaſer.

XXV. Provided always, and be it further enacted, That if any Perſon hath ſold, or ſhall at any Time before the Execution of the ſaid Award ſell his or her Right, Intereſt, or Property in, over, or upon the ſaid Commons, Warren, Fens, and Waſte Grounds, or any Part thereof, or any Allotment or Allotments in reſpect thereof, to any other Perſon, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to make ſuch Allotment or Allotments, or an Allotment of Land, unto the Vendee or Purchaſer in ſuch Sale, or to his or her Heirs or Aſſigns, for and in reſpect of ſuch Allotment or Allotments, Right, Intereſt, and Property, ſo ſold as aforeſaid; and every ſuch Vendee or Purchaſer, and his and her Heirs and Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner to all Intents and Purpoſes, as the Vendor in ſuch Sale might, could, or ought to have held and enjoyed the ſame in caſe ſuch Sale had not been made, or ſuch Allotment or Allotments, Right, Intereſt, or Property, had been veſted in ſuch Vendor at the Time of making ſuch Allotment as aforeſaid.

Allotments free from Tythes for a certain Time.

XXVI. And be it further enacted, That on Account of the ruinous and devaſtated State of the ſaid Commons, Warren, Fens, and Waſte Grounds, occaſioned by Inundations of the Sea, and of the great Expence that will incur in improving the ſame, the ſaid Commons, Warren,

Fens,

Fens, and Waſte Grounds, ſhall be exempt from all Manner of Tythes for the Term of Five Years, to be computed from the Day of paſſing this Act.

Allotments to be marked out.

XXVII. And be it further enacted, That when and ſo often as the ſaid Commiſſioner ſhall have aſcertained the reſpective Rights and Intereſts of the ſeveral Perſons entitled to and intereſted in the Lands and Grounds hereby directed to be divided, allotted, and incloſed, he ſhall cauſe the ſeveral Allotments propoſed to be made by him in lieu and in reſpect thereof, to be diſtinctly laid down and delineated upon a Map or Plan, and ſhall give Notice in Manner aforeſaid of ſome convenient Time and Place when and where the ſeveral Perſons intereſted may inſpect and examine the ſaid Map or Plan; and if any Perſon ſhall have any Objection or Objections to the propoſed Allotment, he or ſhe ſhall ſign and deliver to the ſaid Commiſſioner a Statement thereof in Writing, at or before ſuch Meeting as ſhall be by him appointed for that Purpoſe, and the ſaid Commiſſioner ſhall thereupon take the ſame into Conſideration and determine the Matter thereof.

Allotments to be of the ſame Tenure as Lands for which allotted.

XXVIII. And be it further enacted, That all the Meſſuages, Cottages, Lands, and Grounds which ſhall be allotted by virtue of this Act or the ſaid recited Act to any Perſon or Perſons, for or in reſpect of any Meſſuages, Cottages, Lands, or Grounds, holden of any Manor or Manors by Copy of Court Roll, or for or in reſpect of any Leaſehold Meſſuages, Cottages, Lands, and Grounds, or for or in reſpect of any Right of Common, or any other Right or Intereſt appurtenant or appendant to any ſuch Copyhold or Leaſehold Premiſes, ſhall, from and after the Execution of the ſaid Award, be deemed and taken to be Copyhold or Leaſehold, and ſhall be held as ſuch by and under the ſame Tenure, Rents, Payments, Fines, Cuſtoms, and Services, as the Copyhold or Leaſehold Meſſuages, Cottages, Lands, or Tenements reſpectively, for or in reſpect whereof ſuch Allotments ſhall be made are now holden: Provided always, that all and every Perſon or Perſons to whom ſuch Copyhold Meſſuages, Cottages, Lands, and Premiſes ſhall be allotted as aforeſaid, ſhall, within Six Calendar Months next after the Execution of the ſaid Award, be admitted Tenant or Tenants to the ſame, without paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Steward or Stewards of the ſaid Manor or Manors, (ſave and except the Stamp Duties and Parchment requiſite to be uſed for the Copies of ſuch Admiſſions reſpectively, and ſuch reaſonable Fees to the reſpective Steward or Stewards of the ſaid Manor or Manors as the ſaid Commiſſioner ſhall by his Award order and direct); but in caſe any Perſon or Perſons, to whom ſuch Lands and Premiſes ſhall be allotted, ſhall die without Admiſſion within the ſaid Six Calendar Months, then the cuſtomary Fine, Fees, and other Payments, ſhall be due and payable on the Admiſſion of the Perſon or Perſons entitled to ſuch Lands and Premiſes; and after every ſuch firſt Admiſſion, the Copyhold Premiſes ſo to be allotted as aforeſaid, ſhall at all Times be held under and ſubject to the ſame Tenures, Fines, and other Payments, as the preſent Copyhold Meſſuages, Cottages, Lands, or Tenements, in reſpect whereof ſuch Lands and Premiſes ſhall be allotted, are now holden under and ſubject to, and the ſaid Commiſſioner ſhall by his Award determine, deſcribe, and abut the Meſſuages, Cottages, Lands, and Grounds reſpectively, which are to be and

remain Copyhold or Leaſehold; and all other Meſſuages, Buildings, Lands, and Grounds to be allotted by virtue of this Act, except what ſhall be ſo aſcertained by the ſaid Commiſſioner to be Copyhold or Leaſehold, ſhall be henceforth deemed, taken, and enjoyed, as Freehold Meſſuages, Buildings, Lands, and Grounds; ſubject nevertheleſs to ſuch Free Rents and Services as are now due or payable out of or for the reſpective Meſſuages, Lands, Tenements, or Hereditaments, for or in reſpect whereof the ſame ſhall or may be allotted.

Commiſſioner to award and exchange Lands within the Pariſh of Horſey, or any adjoining Pariſh.

XXIX. 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 *Horſey*, in lieu of and in Exchange for any other Lands, Tenements, or 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 Award of the ſaid Commiſſioner, 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 Politick, Corporate or Collegiate, or ſole, or 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 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, Lunaticks, 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 Politick, Corporate or Collegiate, and under the Hands of the conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in Law, to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchange ſhall be made 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 Lord Biſhop of the Dioceſe in which ſuch Lands, Tenements, or Hereditaments ſo to be exchanged, ſhall lie and be ſituate.

Expences of Exchanges by whom to be paid.

XXX. Provided always, and be it further enacted, That all Coſts, Charges, and Expences, attending the making and completing of any Exchanges and Partitions which ſhall be made by virtue of this or the ſaid recited Act, ſhall be paid, borne, and defrayed, by the ſeveral Perſons making ſuch Exchanges or Partitions, in ſuch Manner, and in ſuch Shares and Proportions as the ſaid Commiſſioner ſhall, by his Award or other ſeparate Deed or Inſtrument, order and direct.

Wills or Settlements not to be affected.

XXXI. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend ſo as to make void, alter, or annul, any Will or Settlement, or to prejudice any Perſon or Perſons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances, out of, upon, or affecting any of the Meſſuages,

Buildings, Lands, or Grounds, to be divided, allotted, inclosed, or exchanged as aforesaid, or any Part or Parts thereof respectively, but that the respective Persons, to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this Act, shall be seised thereof to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, Charges, and Incumbrances, and no other, as the Messuages, Buildings, Lands, Grounds, and Hereditaments, whereof such Person was seised or possessed at or immediately before the Execution of the said Award, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to be charged with or affected by in case this Act had not been made.

Commissioner to lay his Accounts once a Year before a Justice.

XXXII. 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 Commissioner shall and he is hereby required to make a true and just Statement or Account in Writing of all Sums of Money by him received and expended, or due to him for his 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 him laid before any One or more of His Majesty's Justices of the Peace for the County of *Norfolk*, to be by him or them examined and allowed, and the Balance of such Accounts shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioner, 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 or Justices.

Proprietors, Agents, &c. to pay their own Expences.

XXXIII. Provided always, and be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they, or any of them, shall attend the said Commissioner at any of his Meetings to be holden in pursuance of this Act.

For defraying the Charges and Expences of obtaining and executing this Act.

XXXIV. And be it further enacted, That the Costs, Charges, and Expences, of inclosing the Allotments which shall by virtue of this Act be made to the said Vicar in Right of his said Vicarage, and to the Surveyor of the Highways, the Trustees for the Poor of the said Parish of *Horsey*, and to the special Commissioners herein-after appointed; and all the Costs, Charges, and Expences, incident to and attending the obtaining and passing of this Act, and of surveying, measuring, planning, valuing, dividing, allotting, draining, and preserving the Lands, Grounds, and Premises to be divided, allotted, drained, and preserved, by virtue of the said recited Act and this Act, and of preparing and inrolling the Award of the said Commissioner, and of the Copies thereof; and all Charges and Expences of the said Commissioner, his Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioner in and about the Premises, either before or after the Execution of the said Award; and all the Expences of forming, completing, and repairing the publick Carriage Roads and Highways to be set out and appointed by the said Commissioner; and all other Expences of carrying this and the said recited Act into Execution, shall be borne and defrayed by the several Persons to whom any Allotment or

Allotments

Allotments shall be made by virtue of this Act, (save and except the said Vicar in respect of any Allotment which shall be made to him in Right of his said Vicarage, and also save and except the Surveyors of the Highways and the Trustees for the Poor of the said Parish of *Horsey*, and the said Special Commissioners for the Time being, for or in respect of the Allotments hereby directed to be made to them respectively as aforesaid, and also save and except the Person or Persons whose Real Property within the said Parish of *Horsey*, or elsewhere, shall not, in the Judgement of the said Commissioner, exceed the yearly Value of Five Pounds, or who shall not be possessed of Personal Property which, together with any Cottage or Land in the said Parish of *Horsey*, or any other Parish, shall be equal to the above yearly Value of Five Pounds, or Personal Property only to the Amount of One hundred Pounds, at the Time of making the said Allotment,) in such Shares and Proportions, at such Time or Times, and to such Person or Persons, as the said Commissioner shall appoint.

Money advanced to be repaid with Interest.

XXXV. And be it further enacted, That if any of the Proprietors or Persons interested in the Open Fields, Commons, Warren, Fens, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any other Person or Persons on his, her, or their Behalf, 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 Direction of the said Commissioner, together with lawful Interest for the same.

Power for certain Persons to sell Allotments.

XXXVI. And be it further enacted, That it shall and may be lawful for the said Commissioner, on Application in Writing made to him by any Body or Bodies Politick, Corporate, Collegiate or Sole, or by the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of the Proprietors or Persons interested in the Premises, being under Coverture, Minors, Ideots, Lunaticks, beyond the Seas or under any other legal Disability, or by any of the said Proprietors or Persons interested, being Tenant or Tenants in Tail, or for Life or Lives, or for Years determinate on a Life or Lives, or on any other Contingency, or otherwise, (except the Vicar of the Vicarage of *Horsey* for the Time being,) to sell and dispose of any Part or Parts of the Allotment or Allotments which shall be made by virtue of this Act to such incapacitated Persons, for the Purpose of defraying his, her, or their Share or Proportion of the Costs, Charges, and Expences of obtaining this Act, and of carrying this and the said recited Act into Execution, and also the Expences of inclosing, fencing, and subdividing their, his, or her Allotment or Allotments, and of making and completing such Sale or Sales; and such Sale or Sales shall be made by the said Commissioner in the same Manner, and subject to the same Rules and Regulations, as are mentioned and described in and by the said recited Act with respect to the Sale of any Lands authorized to be sold for paying the Expences of obtaining and carrying into Execution any Act for dividing, allotting, and inclosing any Lands and Grounds; and each and every Allotment, for which the full Purchase Money shall be paid to the said Commissioner, shall be conveyed by such Commissioner by Lease and Release, or Bargain and Sale, or both or either of the said Assurances, as the Case may require, at the Expence

of the ſaid Purchaſer or Purchaſers, unto and to the Uſe of or in Truſt for him, her, or them, and his, her, and their Heirs and Aſſigns reſpectively, or as he, ſhe, or they ſhall appoint, and ſhall be incloſed and held by ſuch Purchaſer or Purchaſers reſpectively in Fee Simple, in ſeveralty, and diſcharged of all Commonable and other Rights thereon, and the Receipt of the ſaid Commiſſioners ſhall be a good and ſufficient Diſcharge to ſuch Purchaſer or Purchaſers for the Money therein expreſſed to be received by him; and the ſaid Purchaſe Money ſhall be applied by the ſaid Commiſſioner in and towards the defraying ſuch laſt-mentioned Coſts, Charges, and Expences, and ſuch Purchaſer or Purchaſers ſhall not be liable to ſee to the Application, or be anſwerable for any Miſapplication or Non-application thereof; and if any Surplus of the ſaid Purchaſe Money ſhall remain after anſwering the Purpoſes aforeſaid, the ſame ſhall be applied and diſpoſed of by the ſaid Commiſſioner in the like Manner as is provided and directed by the ſaid recited Act with reſpect to the Surplus of any Sum of Money paid for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes: Provided nevertheleſs, that it ſhall not be lawful to raiſe by ſuch Sale or Sales any further or greater Sum of Money than the Perſon or Perſons (Part of whoſe Allotment ſhall be ſo ſold as aforeſaid) would have been empowered or authorized to borrow or charge upon his, her, or their Eſtate or Eſtates, under or by virtue of the ſaid recited Act.

Not to deduct Land and borrow Money.

XXXVII. Provided always, and be it further enacted, That in all Caſes where any Land ſhall be deducted from the Allotment of any of the ſaid Proprietors or Perſons towards Payment of the Expences as aforeſaid; it ſhall not be lawful for the ſaid Commiſſioner to deduct from any Allotments to be made to any Proprietor or Proprietors, any further or greater Quantity of Land than would be equal in Value to the Sum of Money that ſuch Proprietor or Proprietors is or are by this or the ſaid recited Act empowered to borrow or charge on his, her, or their Lands, Tenements, or Hereditaments; nor ſhall it be lawful for the Proprietors or Perſons, from whoſe Allotment Land ſhall be deducted as aforeſaid, to charge his, her, or their Lands, Tenements, or Hereditaments, by virtue of the ſaid recited Act, with any Money towards Payment of ſuch Expences.

Clauſe for Drainage, &c.

XXXVIII. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, by ſuch Agents, Workmen, and Labourers, as he ſhall think fit to employ, to make and erect all ſuch Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works in, through, over, and upon the Open Fields, Marſh Lands, Commons, Warren, Fens, and Waſte Grounds hereby directed to be divided, allotted, and drained, or any Part thereof, and to continue thoſe already made and erected, as he the ſaid Commiſſioner ſhall judge proper and expedient for effectually draining ſuch Parts of the ſaid Lands and Grounds as in his Opinion ſhall require to be drained and be preſerved and protected from Inundations of the Sea; and to purchaſe any Mill or Mills, Staithe or other Works, Banks or Dikes, for that Purpoſe, and to erect ſuch Houſes or Buildings, for the Habitations of the Perſon

Perſon or Perſons who ſhall have the Care or Superintendence of the ſaid Mills or Works, or any of them, or for depoſiting Stores or Materials neceſſary for the making or maintaining of ſuch Mills and Works, as he the ſaid Commiſſioner ſhall think proper; and alſo to repair the common Dike leading to the Staithe now uſed, and intended to be hereafter uſed, as a common or publick Boat Dike or Dikes, by the Owners and Occupiers of Eſtates within the ſaid Pariſh of *Horſey* for the Time being, only for the Conveyance of Corn, Manure, and other Things, to and from the ſaid River; any ſuch Manure not being ſuffered to remain thereon for a longer Space at any one Time than Three Calendar Months, accounting from the Time of its being firſt begun to be depoſited thereon, without being conſidered damage faiſant; and that the ſaid Commiſſioner ſhall ſet out and allot unto the Special Commiſſioners herein-after appointed, the Drains, Dams, Banks, Sluices, Engines, Bridges, and other Works, Houſes, Buildings, and Boat Dike or Dikes already made and erected, and to be purchaſed, and hereafter to be made, erected, or purchaſed by them, and ſuch Parts of the Lands and Grounds to be drained by virtue of this Act, as he ſhall think proper for maintaining and preſerving the ſame, and alſo the Piece or Pieces of Land adjoining to the ſaid Boat Dike or Dikes now uſed and intended to be uſed as a publick Staithe or Staithes, by the Owners and Occupiers of Eſtates in the ſaid Pariſh of *Horſey* for the Time being, only for the Purpoſe of laying and depoſiting thereon the Corn, Manure, and other Things which ſhall be conveyed, or intended to be conveyed to or from the ſaid River, by Means of the ſaid Boat Dike or Dikes, ſuch Manure not being ſuffered to lay or continue upon the ſaid Staithe longer than the Space of Time herein-before mentioned.

Compenſation for Lands, &c. taken.

XXXIX. And be it further enacted, That the ſaid Commiſſioner ſhall, at or before the Execution of his Award, make or cauſe to be made ſuch Compenſation in Money as he ſhall think proper, for the Part or Parts of the ſaid Lands which ſhall be taken or uſed for the making or erecting the ſaid Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works, Houſes, and Buildings, or any of them, or ſet out and allotted for Ways and Paſſages to and from the ſame, and for repairing and preſerving the ſame to the Proprietor or Proprietors of the Part or Parts of the ſaid Lands and Grounds to be taken, uſed, ſet out, or allotted for the Purpoſes above-mentioned, or any of them, by the ſeveral Proprietors intereſted in ſuch Drainage; and alſo for the Banks and other Works lately made and erected by the aforeſaid *Robert Riſing* for the Purpoſe of protecting and preſerving a great Part of the ſaid Open Fields, Marſh Lands, Commons, Fens, and Waſte Grounds, from Inundations of the Sea; and alſo the Mill, and other Works likewiſe made and erected by him the ſaid *Robert Riſing* for draining the ſame Part of the ſaid Open Fields, Marſh Lands, Commons, Fens, and Waſte Grounds, provided it ſhall appear in the Judgement of the ſaid Commiſſioner, or of the Special Commiſſioners to be appointed as herein-after mentioned, that the ſaid Banks, Mill, and other Works, or any of them, ſhall be found beneficial or ſerviceable to be continued for the future Preſervation, Embankment, and Drainage of the ſaid Open Fields, Marſh Lands, Commons, Warren, Fens, and Waſte Grounds, or any of them; and ſuch Money ſhall and may be levied and recovered as the Coſts, Charges, and

Expences of obtaining and executing this Act, may be levied and recovered; and such Money shall, when received by the said Commissioner, be applied in the Discharge of such Proportion of the Charges and Expences of obtaining and executing this Act as the Proprietor or Proprietors, whose Land shall have been so taken, used, set out, or allotted, shall be subject or liable to pay, and the Overplus (if any) shall be by him paid to the Person or Persons entitled to the same: Provided always, that if any Body Politick, Corporate or Collegiate, Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, or any Person acting as Guardian, Committee, or Trustee for or on Behalf of any Infant, Lunatick, Ideot, Feme Covert, or other Cestuique Trust, or any Person or Persons whose Lands, Tenements, or Hereditaments, are limited in strict or other Settlement, shall be entitled to receive such Sum of Money or Overplus, the same shall be by the said Commissioner applied and disposed of in such Manner as is directed by the said recited Act in Cases wherein 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.

Award to be inrolled and deposited.

XL. And be it further enacted, That the Award to be made by the said Commissioner for Inclosure, when inrolled in Manner directed by the said recited Act, shall, together with a Plan thereunto annexed, be deposited in a Tin Box in the Parish Church of *Horsey* aforesaid.

Special Commissioners appointed.

XLI. And be it further enacted, That the Impropriators of the said Rectory, the Vicar of the said Vicarage of *Horsey* for the Time being, and each and every Owner or Proprietor of Forty Acres of Land, to be drained by virtue of this Act, shall, from and after the Execution of the Award herein directed to be made by the said Commissioner for Inclosure, be and are hereby appointed Special Commissioners for the Purpose of draining the Open Fields, Marsh Lands, Commons, Fens, and Waste Grounds, directed to be drained by virtue of this Act.

Appointment of Deputy Commissioners.

XLII. And be it further enacted, That it shall and may be lawful to and for each and every such Special Commissioner, by Writing under his or her Hand, from Time to Time and for such Time as he or she shall think fit, to nominate and appoint an Agent or Deputy, to act in his or her Absence, as a Commissioner in his or her Stead; and every such Agent or Deputy shall and may, in the Absence of the Person by whom he shall be so nominated and appointed, act as a Special Commissioner, and shall have the like Powers and Authority as the Persons by whom such Agent or Deputy shall be appointed, but no such Agent or Deputy shall be capable of acting as Agent or Deputy for the Purposes of this Act, for more than One Special Commissioner at any one Time.

Special Commissioner and Agent or Deputy to take an Oath or Affirmation.

XLIII. And be it further enacted, That no Person shall be capable of acting as a Special Commissioner, or as Agent or Deputy to such Special Commissioner, (except it be in administering the Oath or Affirmation herein-after mentioned to any of the other Special Commissioners, Agents, or Deputies,) until he or she shall have taken the

the Oath following; (*or*, being one of the People called *Quakers*, made Affirmation,) *videlicet*,

Oath.

'I 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 Special Commiſſioner, [*or*, as Agent or Deputy to a Special Commiſſioner,] appointed in and by an Act made in the Fifty-ſecond Year of the Reign of His Majeſty King *George* the Third, intituled *An Act for incloſing and draining Lands in the Pariſh of* Horſey, *in the County of* Norfolk.

'So help me GOD.'

Which Oath or Affirmation it ſhall and may be lawful to and for any One of the ſaid Special Commiſſioners to adminiſter, and ſuch Special Commiſſioner is hereby required to adminiſter the ſame to the other Special Commiſſioners, or to an Agent or Deputy.

Which Oath or Affirmation may be adminiſtered by a Special Commiſſioner.

Penalty on Perſons acting not being qualified.

XLIV. And be it further enacted, That in caſe any Perſon ſhall preſume to act as a Special Commiſſioner before he or ſhe ſhall have taken the ſaid Oath, or made Affirmation; or if any Perſon, not being duly qualified as required by this Act, ſhall have acted or ſhall have appointed any Agent or Deputy, who ſhall have acted as ſuch Agent or Deputy in the Execution of this Act, every ſuch Perſon ſhall forfeit and pay for every ſuch Offence the Sum of Twenty Pounds to any Perſon or Perſons who ſhall ſue for the ſame, to be recovered with full Coſts of Suit, by Action of Debt or on the Caſe, Bill, Plaint, or Information, in any of His Majeſty's Courts of Record at *Weſtminſter*, wherein no Eſſoign, Protection, or Wager at Law, or more than One Imparlance ſhall be allowed, and the Perſon ſo proſecuted ſhall prove that he or ſhe has taken ſuch Oath, or made ſuch Affirmation, and is qualified as aforeſaid, or otherwiſe ſhall pay the ſaid Sum of Twenty Pounds, without any other Proof or Evidence on the Part of the Proſecutor, than that ſuch Perſon has acted as a Special Commiſſioner in the Execution of this Act, or has appointed an Agent or Deputy who has acted in the Execution of this Act; One Moiety of which Penalty ſhall be paid to the Proſecutor, and the other Moiety ſhall be applied to the Purpoſes of this Act.

First Meeting of Special Commiſſioners.

XLV. And be it further enacted, That the ſaid Special Commiſſioners ſhall, and they are hereby required to hold their firſt Meeting for carrying this Act into Execution, in the ſaid Pariſh of *Horſey*, on the firſt *Monday* in the Month next after the Execution of the Award hereinbefore directed to be made by the Commiſſioner for Incloſure, between the Hours of Ten and Twelve in the Forenoon, and the ſaid Special Commiſſioners ſhall meet on the firſt *Tueſday* in the Month of *May*, in each and every Year, between the Hours aforeſaid, in the ſaid Pariſh of *Horſey*, which laſt-mentioned General Meeting ſhall be called *The General Annual Meeting of the ſaid Special Commiſſioners*; and the ſaid Special Commiſſioners ſhall and may from Time to Time adjourn themſelves to meet at any convenient Place within the ſaid Pariſh, or within Eight

Miles

Miles thereof, which they the ſaid Special Commiſſioners, or the major Part of them preſent at ſuch Meeting, ſhall appoint; and if it ſhall ſo happen that there ſhall not appear a ſufficient Number of the ſaid Special Commiſſioners at any ſuch Meeting to act or adjourn to another Day, (Two Special Commiſſioners to be deemed ſufficient for the Purpoſe of adjourning,) or if they ſhall neglect or refuſe to adjourn, or if any Two or more of the ſaid Special Commiſſioners ſhall deem a Meeting of the ſaid Special Commiſſioners to be neceſſary or proper before the Time appointed for the then next General Annual Meeting or Meetings by Adjournments of ſuch Commiſſioners, then and in every ſuch Caſe the Clerk to the ſaid Special Commiſſioners, or any Two or more of the ſaid Special Commiſſioners, ſhall and may call a Meeting, to be holden within the ſaid Pariſh of *Horſey*, by Writing under his or their Hand or Hands, affixed upon the principal Door of the Church belonging to the ſaid Pariſh of *Horſey*, and by publiſhing the ſame in the *Norfolk Chronicle*, or the *Norwich Mercury*, or in ſome other Newſpaper printed and circulated within the ſaid County of *Norfolk*, Eight Days at the leaſt previous to ſuch Meeting; and no Act of the ſaid Special Commiſſioners ſhall be good or valid, unleſs done at ſome publick Meeting to be holden by virtue of this Act, (ſave as may be herein excepted); and that all Powers and Authorities granted to or veſted in the ſaid Special Commiſſioners, ſhall and may from Time to Time be exerciſed by the major Part of them preſent at any ſuch Meeting, the whole Number preſent at ſuch Meeting not being leſs than Three; and the ſaid Special Commiſſioners ſhall, at all their Meetings in purſuance of this Act, be allowed Ten Shillings each *per* Day, out of the Monies to ariſe by virtue of this Act, and no more, towards their Expences, ſo that ſuch Allowance do not in the Whole exceed the Sum of Three Pounds *per* Day, at every ſuch Meeting of the ſaid Special Commiſſioners.

Books to be kept.

XLVI. 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 Special Commiſſioners, relative to the Execution of this Act, and of the Names of the Special Commiſſioners who ſhall be preſent at the Meeting, and the ſame ſhall be ſigned by the Clerk to the ſaid Special Commiſſioners; 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.

Actions to be brought in the Name of the Clerk.

XLVII. And be it further enacted, That the ſaid Special Commiſſioners ſhall and may ſue and be ſued in the Name of their Clerk, and that no Action that ſhall be brought or commenced by or againſt the ſaid Special Commiſſioners, 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 the Removal of ſuch Clerk, or by the Act of ſuch Clerk, without the Conſent of the ſaid Special Commiſſioners; but the Clerk for the Time being of the ſaid Special Commiſſioners 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 Special Commiſſioners and their Clerk for the Time being, in which Caſe any One of the ſaid Special Commiſſioners ſhall or may be made Plaintiff or Defendant,

Defendant, as the Caſe ſhall be: Provided always, that every ſuch Clerk or Special Commiſſioner, 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 having been ſo made Plaintiff or Defendant therein. Clerk, &c. to be paid his Expences.

XLVIII. And be it further enacted, That the ſaid Special Commiſſioners ſhall or may, at their firſt or any ſubſequent Meeting or Meetings, appoint a Treaſurer, Surveyors, and ſuch other Officer or Officers for the Execution of this Act as the ſaid Special Commiſſioners ſhall think proper, and from Time to Time remove them, or any of them, and appoint others as they ſhall find neceſſary and convenient; and, by and out of the Monies to be raiſed by virtue of this Act, may and are hereby empowered to appoint and pay ſuch Salaries and Allowances to ſuch Officers, and to all other Perſons by them the ſaid Special Commiſſioners employed in the Execution of this Act, as they ſhall think proper; and the ſaid Special Commiſſioners ſhall take ſuch Security, for the due Execution of the reſpective Offices by ſuch Perſon or Perſons as aforeſaid, as the ſaid Special Commiſſioners ſhall think proper, and all ſuch Officers and Perſons to be appointed as aforeſaid ſhall, under their Hands, at ſuch Time and Times, in ſuch Manner as the ſaid Special Commiſſioners ſhall direct, deliver to ſuch Special Commiſſioners, or to ſuch Perſon or Perſons as they ſhall appoint, true and perfect Accounts in Writing of all Matters and Things committed to their Charge by virtue of this Act, and alſo all Monies which ſhall have been by ſuch Officer or Officers, Perſon or Perſons, reſpectively received by virtue and for the Purpoſes of this Act, and how much thereof has been paid and diſburſed, and for what Purpoſes, together with the proper and legal Receipts or Vouchers for ſuch Payments, and ſhall pay all ſuch Monies as ſhall remain in their reſpective Hands to the ſaid Special Commiſſioners, or to ſuch Perſon or Perſons as they ſhall appoint, and all the ſaid Officers and Perſons ſo accounting as aforeſaid ſhall upon Oath verify their ſaid Accounts, which Oath any One of the ſaid Special Commiſſioners is hereby empowered to adminiſter; and if ſuch Officer or Perſon ſhall not make and render, or ſhall refuſe to verify upon Oath any ſuch Account, or ſhall refuſe to produce or deliver up the Receipts or Vouchers relating to the ſame, or ſhall not deliver to the ſaid Special Commiſſioners, or to ſuch Perſon or Perſons as they ſhall appoint, within Twenty Days after being thereunto required by ſuch Special Commiſſioners, all Books, Papers, and Writings in his or their Cuſtody or Power relating to the Execution of this Act, or ſhall refuſe or neglect to pay ſuch Monies as upon the Balance of any Account or Accounts ſhall appear to be in their reſpective Hands to the ſaid Special Commiſſioners, or as they ſhall direct or appoint, then and in any of the Caſes aforeſaid ſuch Special Commiſſioners may, and they are hereby authorized and empowered, to bring or cauſe to be brought any Action or Actions againſt the Officer or Officers, Perſon or Perſons ſo neglecting or refuſing as aforeſaid; or if Complaint ſhall be made by the ſaid Special Commiſſioners, or by ſuch Perſon or Perſons as they ſhall appoint for that Purpoſe, of any ſuch Refuſal or Neglect as aforeſaid, to any Two or more Juſtices of the Peace for the County or Place wherein For appointing Officers.

ſuch Officer or Officers, Perſon or Perſons ſo neglecting or refuſing ſhall be and reſide, ſuch Juſtices may, and they are hereby authorized and required, by a Warrant or Warrants under their Hands and Seals, to cauſe the Officer or Officers, Perſon or Perſons ſo refuſing or neglecting, to be brought before them, and upon his or their appearing, or not being found, to hear and determine the Matter in a ſummary Way; and if, upon the Confeſſion of the Party or Parties, or by the Teſtimony of any credible Witneſs or Witneſſes upon Oath, (which Oath ſuch Juſtices are hereby empowered to adminiſter,) it ſhall appear to ſuch Juſtices that any of the Money that ſhall have been collected or raiſed by virtue of this Act ſhall be in the Hands of ſuch Officer or Officers, Perſon or Perſons, ſuch Juſtices may, and are hereby authorized and required, upon Non-payment thereof, by Warrant or Warrants under their Hands and Seals, to cauſe ſuch Money to be levied by Diſtreſs and Sale of the Goods and Chattels of ſuch Officer or Officers, Perſon or Perſons reſpectively; and if no Goods or Chattels of ſuch Officer or Officers, Perſon or Perſons, can be found ſufficient to anſwer and ſatisfy the ſaid Money, and the Charges of diſtraining and ſelling the ſame, or if it ſhall appear to ſuch Juſtices, upon the Confeſſion of the Party or Parties, or by the Teſtimony of any credible Witneſs or Witneſſes upon Oath, (which Oath the ſaid Juſtices are hereby empowered to adminiſter,) that any ſuch Officer or Perſon ſhall not have made and rendered, or ſhall refuſe to verify upon Oath any ſuch Account, or ſhall refuſe to produce or deliver up the Receipts or Vouchers relating to the ſame, or ſhall not have delivered to the ſaid Special Commiſſioners, or to ſuch Perſon or Perſons as they ſhall have appointed, within Twenty Days after having been thereunto required by ſuch Special Commiſſioners, all Books, Papers, and Writings in his or their Cuſtody or Power, relating to the Execution of this Act, then and in any or either of the Caſes aforeſaid, ſuch Juſtices ſhall commit every ſuch Offender to the Common Gaol or Houſe of Correction for the ſaid County of *Norfolk*, there to remain without Bail or Mainprize until he ſhall make and give a true and perfect Account and Payment as aforeſaid, or until he ſhall have compounded with the ſaid Special Commiſſioners, and ſhall have paid ſuch Compoſition in ſuch Manner as they ſhall appoint, (which Compoſition the ſaid Special Commiſſioners are hereby empowered to make,) and until he ſhall have delivered up ſuch Books, Papers, Vouchers, and Writings as aforeſaid, or given Satisfaction in reſpect thereof, to the ſaid Special Commiſſioners: Provided always, that no ſuch Officer or Perſon ſo committed for want of ſufficient Diſtreſs ſhall be detained in Priſon, by virtue of this Act, for any longer Space than Six Calendar Months.

Works of Drainage.

XLIX. And be it further enacted, That the ſaid Special Commiſſioners ſhall be and they are hereby fully empowered from Time to Time, by ſuch Agents or Perſons as they ſhall think proper, to employ, ſupport, maintain, repair, and improve all ſuch Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works as ſhall be made or erected, as alſo ſuch as are already made and erected, and ſhall be ordered to be continued by the ſaid Commiſſioner for Incloſure, or the ſaid Special Commiſſioners, in, through, over, or upon the Lands and Grounds to be drained by virtue of this Act, for the Purpoſe of draining the ſame, and protecting the ſaid Lands and Grounds from Inundations of the Sea,

and from Time to Time to renew ſuch of them as ſhall fall into Decay and become incapable of being repaired; and alſo to make and erect all ſuch Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works, and to continue ſuch of thoſe already made, as ſhall appear to the Commiſſioner for Incloſure, or to the ſaid Special Commiſſioners, to be neceſſary for effectually draining the ſaid Lands and Grounds, and protecting the ſame from Inundations of the Sea; all which Drains, Dams, Banks, Mills, Dikes, Sluices, Engines, Bridges, and other Works, to be made or erected by the ſaid Commiſſioner for Incloſure, or by the ſaid Special Commiſſioners, and the Right and Property to and in the ſame, and the Materials of which the ſame ſhall conſiſt, and alſo the Piece or Pieces of Land to be ſet out and allotted by the ſaid Commiſſioner for Incloſure, to the ſaid Special Commiſſioners, for maintaining, preſerving, and repairing the ſame, is and are hereby veſted in the ſaid Special Commiſſioners for the Time being, and they are hereby authorized and required from Time to Time to inſure from Fire all and every ſuch Mills, Engines, Edifices, and Buildings, as ſhall at any Time or Times be erected by virtue of this Act.

To raiſe Money for maintaining Works.

L. And be it further enacted, That the ſaid Special Commiſſioners ſhall and may from Time to Time, and at all Times after the Award of the ſaid Commiſſioner for Incloſure ſhall be made and executed, at any of their Meetings to be holden in purſuance of this Act, aſſeſs, rate, tax, and charge, all and every the Owners and Occupiers of the ſaid Lands and Grounds to be drained by virtue of this Act, with ſuch equal and proportionable Rates and Aſſeſſments, upon their reſpective Parts and Shares thereof, as the ſaid Special Commiſſioners ſhall judge neceſſary for the making, maintaining, repairing, and ſupporting of the ſeveral Works for the Drainage of the ſaid Lands and Grounds, or any Part thereof, and for protecting them from Inundations of the Sea, and for making neceſſary Alterations or Enlargements in or to the ſaid Works, or any of them, as Occaſion ſhall require; all which ſaid Rates, Taxes, and Aſſeſſments, ſhall be collected by and paid to ſuch Collector or Collectors, or other Perſon or Perſons, and at ſuch Times as they the ſaid Special Commiſſioners ſhall appoint, and ſhall be applied by them in Diſcharge of all ſuch Expences as they ſhall incur in the Execution of this Act.

Tenants to pay Taxes.

LI. And be it further enacted, That all Tenants and Occupiers of all and ſingular the Lands and Grounds to be drained by virtue of this Act ſhall pay, and are hereby authorized and required to pay, ſuch Sums of Money as ſhall be ſo aſſeſſed on the Lands in their reſpective Occupations, by the ſaid Special Commiſſioners, to the Collector or Collectors, or other Perſon or Perſons appointed by the ſaid Special Commiſſioners, for the Purpoſe of receiving the ſame; and that it ſhall and may be lawful to and for every ſuch Tenant or Occupier to deduct and retain the ſame out of his, her, or their Rent or Rents, and the ſeveral Owners are hereby required to allow ſuch Deductions, and every ſuch Tenant or Occupier paying ſuch Rate or Aſſeſſment, ſhall be diſcharged of ſo much Money as the ſame ſhall amount to, as fully as if the ſame had been paid to his or her Landlord.

LII. And

For Recovery of Taxes.

LII. And be it further enacted, That in caſe any Owner or Owners, Tenant or Tenants, Occupier or Occupiers, of any Lands or Grounds to be drained by virtue of this Act, ſhall make Default in Payment of the Whole or any Part of the Sum or Sums to be aſſeſſed, rated, taxed, or charged upon him, her, or them, for or in reſpect of ſuch Lands or Grounds, or any Part thereof, and ſhall continue in ſuch Default for the Space of Ten Days next after the Time appointed by the ſaid Special Commiſſioners for ſuch Payment, and after Demand of ſuch Rates and Aſſeſſments made by the Collector or Collectors, or other Perſon or Perſons authorized to collect ſuch Rates and Aſſeſſments, by Writing left at the uſual Place or Places of Abode of ſuch Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, who is, are, or ought to pay the ſame, or if ſuch Owner or Owners, Tenant or Tenants, or Occupier or Occupiers, ſhall not have any Place of Abode within the ſaid Pariſh of *Horſey*, or within Two Miles of the ſame, then, after Demand made by the Collector or Collectors, or other Perſon or Perſons authorized to collect ſuch Rates and Aſſeſſments, by Notice in Writing to be affixed on ſome conſpicuous Part of the Premiſes chargeable with ſuch Rates and Aſſeſſments, it ſhall and may be lawful to and for ſuch Collector or Collectors, or other Perſon or Perſons authorized as aforeſaid, by virtue of any Warrant or Precept under the Hands and Seals of any Two or more of the ſaid Special Commiſſioners, which Warrant or Precept ſuch Two or more Special Commiſſioners are hereby empowered and required to give, as there ſhall be Occaſion, although not aſſembled at any Meeting, in purſuance of this Act, to enter into and upon all or any Part of the Lands or Grounds ſo rated and aſſeſſed as aforeſaid, and into and upon all or any Meſſuage or Tenement thereupon ſtanding, and there, or in any Part of the Lands, Grounds, Meſſuages, or Tenements upon which ſuch Entry ſhall be made, to diſtrain all or any ſuch Goods, Chattels, or Cattle, as ſhall be there found; and it ſhall and may be lawful to and for ſuch Collector or Collectors, or other Perſon or Perſons authorized as aforeſaid, to impound the Goods, Chattels, or Cattle ſo diſtrained, on any Part of the Meſſuages or Lands whereon the ſame ſhall be found, or otherwiſe to take, lead, drive, or carry away, and keep the ſame for the Space of Five Days, leaving Notice in Writing of the Cauſe of ſuch Diſtreſs or Diſtreſſes at the Meſſuage or Tenement, or on ſome conſpicuous Part of the Lands or Grounds upon which ſuch Diſtreſs ſhall be taken, or otherwiſe at the uſual Place or Places of Abode of the Owner or Owners of ſuch Goods, Chattels, or Cattle; and if the Owner or Owners of ſuch Goods, Chattels, or Cattle ſo diſtrained, ſhall not pay the Sum or Sums of Money ſo aſſeſſed, rated, and diſtrained for as aforeſaid, together with the Coſts and Charges of ſuch Warrant, and of taking ſuch Diſtreſs, and of keeping and maintaining the ſame, or replevy the ſaid Goods, Chattels, or Cattle ſo diſtrained, according to the Laws now in force for Nonpayment of Rent, within the ſaid Five Days, then the ſaid Goods, Chattels, or Cattle ſo diſtrained ſhall be appraiſed by Two or more indifferent Perſons, to be ſworn by the Conſtable or Headborough of the ſaid Pariſh of *Horſey*, who is hereby authorized and required to adminiſter an Oath for that Purpoſe, to appraiſe the ſame according to the beſt of their Judgement; and that, after ſuch Appraiſement as aforeſaid, the ſaid Goods, Chattels, or Cattle, ſhall be ſold by the ſaid Collector or Collectors, or other Perſon or Perſons as aforeſaid, for Payment

of

of the ſaid Sum or Sums of Money ſo aſſeſſed, rated, and diſtrained for, and of the ſaid Coſts and Charges, and alſo of the Coſts and Charges of appraiſing and ſelling ſuch Diſtreſs; and that the Overplus ariſing from ſuch Sale (if any), after Payment of the ſaid Sum or Sums of Money, ſhall be returned on Demand to the Owner or Owners of ſuch Goods, Chattels, or Cattle.

Lands untenanted to remain a Security for the Rates.

LIII. Provided always, and be it further enacted, That in caſe any of the Lands or Grounds to be drained as aforeſaid ſhall at any Time hereafter be untenanted or unoccupied, ſo that no ſufficient Diſtreſs can be made for levying the ſaid Rates and Aſſeſſments, then the Lands and Grounds chargeable therewith ſhall remain a Security for Payment of ſuch Rates and Aſſeſſments; and all Goods, Chattels, and Cattle, which ſhall at any Time thereafter be found thereon, ſhall and may be diſtrained, impounded, kept, and ſold in Manner aforeſaid, until ſuch Rates and Aſſeſſments, and all Arrears thereof, and the Charges incident to ſuch Diſtreſs, ſhall be fully paid and ſatisfied.

Puniſhment for deſtroying Works.

LIV. And be it further enacted, That if any Perſon or Perſons ſhall wilfully and maliciouſly cut, break down, demoliſh or deſtroy, any Bank, Mill, Engine, Dam, Floodgate, Bridge, Dike, Sluice, or Tunnel already made, or which ſhall at any Time hereafter be made or erected, ſupported, maintained, or uſed for the Purpoſes of this Act, every Perſon ſo offending, and being convicted thereof, ſhall be deemed guilty of Felony, and the Court, before which ſuch Perſon ſhall be tried and convicted, ſhall have Power and Authority to cauſe ſuch Perſon or Perſons to be puniſhed in like Manner as Felons are directed to be puniſhed by the Laws and Statutes of this Realm; or, in Mitigation of ſuch Puniſhment, ſuch Court may, if they think fit, award ſuch Sentence as the Law directs in Caſes of Petit Larceny.

Penalty on Perſons damaging Works.

LV. And be it further enacted, That if any Perſon or Perſons ſhall wilfully or maliciouſly ſtop, dam up or damage, any Drain, Watercourſe, Dam, Bank, Bridge, Stile, Mill, or other Work or Works, which ſhall at any Time hereafter be making or erecting, or made or erected, ſupported, maintained, or uſed for the Purpoſes of this Act, every Perſon ſo offending, and being thereof convicted before any Two or more Juſtices of the Peace for the ſaid County of *Norfolk*, on the Oath of One or more credible Witneſs or Witneſſes, (which Oath ſuch Juſtices are hereby empowered to adminiſter,) ſhall forfeit and pay any Sum not exceeding Fifty Pounds, to be levied by Diſtreſs and Sale of the Goods and Chattels of every ſuch Offender, by Warrant under the Hands and Seals of ſuch Juſtices, and ſuch Money when ſo levied ſhall be paid to any One or more of the ſaid Special Commiſſioners, or to their Clerk, and ſhall be applied towards the Diſcharge of the Expences attending the Execution of this Act; and for Want of ſufficient Diſtreſs, ſuch Offender or Offenders ſhall by the ſaid Juſtices be committed to the Common Gaol of the ſaid County of *Norfolk*, for any Time not exceeding Twelve Calendar Months, at the Diſcretion of the ſaid Juſtices.

Penalty on Neglect to cleanſe Ditches.

LVI. And be it further enacted, That if any Owner or Owners, Occupier or Occupiers, of any Part or Parts of the Lands and Grounds to be drained by virtue of this Act, to which any Dike or Dikes, Ditch or Ditches,

Ditches, Drain or Drains shall belong, shall neglect or refuse sufficiently to scour, cleanse, open, or repair any Dike, Ditch, or Drain, or to make the same of a sufficient Depth and Width, after Ten Days Notice in Writing given to him, her, or them, or left at his, her, or their usual Place or Places of Abode from Time to Time for that Purpose, by the Collector or other Officer to be appointed under and by virtue of this Act, such Collector or other Officer, having an Order in Writing for that Purpose under the Hands of Two or more of the said Special Commissioners, every such Owner or Occupier shall for every such Neglect or Refusal forfeit and pay any Sum not exceeding Four Shillings for every Rod of the Ditch or Drain so neglected to be scoured, cleansed, opened, repaired, deepened, or widened; and it shall and may be lawful from Time to Time to and for such Collector or other Officer to cause such Dikes, Ditches, and Drains, at the Charges and Expences of such Owner or Occupier, to be scoured, cleansed, opened and repaired, deepened and widened, in a sufficient Manner; and where a Way shall have been made over any Dike, Ditch, or Drain, without a sufficient Tunnel to cause such Way to be taken up, and such Dike, Ditch, or Drain to be made of a proper Width and Depth, and by Warrant or Precept, under the Hands of Three or more of the Special Commissioners, to levy such Penalty, and also such Charges and Expences upon such Owner or Owners, Occupier or Occupiers, by Distress and Sale of his, her, or their Goods and Chattels, and such Penalties shall be applied for the Purposes of this Act.

No Trees to be planted or Buildings erected within 200 Yards of any Engine ordered to be erected by Commissioners.

LVII. And be it further enacted, That no Tree or Trees shall at any Time or Times hereafter be planted, or any Building, Stack, or Rick erected or built, except by Order or Permission of the said Special Commissioners, nearer to any Mill or Engine which now is, or are, or hereafter shall be made, erected, or employed as aforesaid, than Two hundred Yards; and if any Tree or Trees shall be planted, or any Building, Stack, or Rick shall be hereafter made, erected, or built, within the Distance aforesaid of any such Mill or Engine, and if the Owner or Owners of any such Tree or Trees, Building, Stack, or Rick shall neglect to take down and remove, or cause to be taken down and removed, such Tree or Trees, Building, Stack, or Rick, for the Space of Fourteen Days after Notice in Writing shall have been given to him, her, or them for that Purpose, or left at his, her, or their last or usual Place or Places of Abode, signed by any Three or more of the said Special Commissioners, then and in any such Case it shall and may be lawful to and for the said Special Commissioners to cause such Tree or Trees to be taken down and carried away; and such Building, Stack, or Rick, to be pulled down and removed; and the Costs and Expences thereby incurred, shall be reimbursed to the said Special Commissioners by the Person or Persons who committed the Offence, and may be recovered by Distress and Sale of his, her, or their Goods, Chattels, and Stock, wherever the same shall be found, by Warrant under the Hands and Seals of any Three of the said Special Commissioners.

Herbage of Lands, &c. to be let annually.

LVIII. And be it further enacted, That the Grass and Herbage growing, arising, and renewing upon such Parts of the Lands and Grounds hereby directed to be divided and allotted, as shall be vested in the said Special

Special Commiſſioners, ſhall in future be let by the ſaid Special Commiſſioners, at their General Annual Meetings to be holden as aforeſaid, for the beſt Rent or Rents that can or may be gotten for the ſame, and ſuch Rents ſhall be applied by the ſaid Special Commiſſioners for the general Purpoſe of Drainage under this Act, in ſuch Manner as they ſhall at ſuch Annual Meetings direct.

For Recovery of Penalties.

LIX. And be it further enacted, That all Penalties and Forfeitures by this Act impoſed and incurred (for the Recovery and Application whereof no particular Method is herein-before directed), ſhall be levied and recovered by Diſtreſs and Sale of the Goods and Chattels of the Offender or Offenders, by Warrant under the Hand and Seal of any One Juſtice of the Peace for the ſaid County of *Norfolk*, which Warrant ſuch Juſtice is hereby empowered to grant upon the Conviction of the Party or Parties, on his, her, or their Confeſſion, or upon the Evidence of One or more credible Witneſs or Witneſſes upon Oath, (which Oath ſuch Juſtice is hereby empowered to adminiſter,) and the Overplus (if any), after deducting the Coſts and Charges of ſuch Diſtreſs and Sale, ſhall be rendered to the Owner or Owners of ſuch Goods and Chattels, and ſuch Penalties and Forfeitures when recovered ſhall be paid to the Treaſurer or Clerk to the ſaid Special Commiſſioners, and ſhall be applied to ſuch of the Purpoſes of this Act as the ſaid Special Commiſſioners ſhall think fit; but nevertheleſs, it ſhall and may be lawful to and for the ſaid Special Commiſſioners, at any of their Meetings, to pay or cauſe to be paid ſuch Part of the ſaid Penalties or Forfeitures, not exceeding One Moiety thereof, to the Informer or Informers, as the ſaid Special Commiſſioners ſhall think reaſonable; and in caſe ſufficient Diſtreſs ſhall not be found, or ſuch Penalties or Forfeitures ſhall not be forthwith paid, it ſhall and may be lawful for ſuch Juſtice, and he is hereby authorized and required, by Warrant under his Hand and Seal, to cauſe the Offender or Offenders to be committed to the Common Gaol or Houſe of Correction of the ſaid County of *Norfolk*, there to remain without Bail or Mainprize for any Time not exceeding Six Calendar Months, unleſs ſuch Penalties or Forfeitures, and all reaſonable Charges attending the ſame, ſhall be ſooner paid and ſatisfied.

Offenders to be committed.

Form of Conviction.

LX. And be it further enacted, That in all Caſes where any Conviction ſhall be had for any Offence or Offences committed againſt this Act, or any Matter in purſuance of this Act, the Form of Conviction ſhall be in the Words or to the Effect following; (that is to ſay,)

'BE it remembered, That on this Day of in the Year of our Lord is convicted before me, one [*or*, us Two] of His Majeſty's Juſtices of the Peace for the County of *Norfolk*, of having [*as the Offence ſhall be*] contrary to an Act of Parliament made in the Fifty-ſecond Year of the Reign of King *George* the Third, intituled *An Act for incloſing and draining Lands in the Pariſh of* Horſey, *in the County of* Norfolk, and I the ſaid Juſtice [*or*, we the ſaid Juſtices] do hereby adjudge him [her *or* them] to forfeit for the ſame the Sum of Given under my Hand and Seal [*or*, our Hands and Seals] the Day and Year aforeſaid.'

LXI. And

Proceedings not to be quashed for Want of Form, nor removable by Certiorari.

LXI. And be it further enacted, That no Order, Determination, Judgement, Conviction, Warrant, or other Proceeding to be had touching the Conviction of any Offender or Offenders against this Act, or any Order, Rate, or Assessment to be made, or any other Matter or Thing to be done or transacted in or relating to the Execution of this Act, shall be quashed or vacated for Want of Form only, or be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*; any Statute, Law, or Usage, to the contrary thereof notwithstanding.

Distress not unlawful for Want of Form.

LXII. And be it further enacted, That where any Distress shall be made for any Tax, Rate, or Sum of Money, to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on Account of any Defect or Want of Form in the Rate or Assessment to be made, or in the Information, Summons, Conviction, Warrant, Distress, or other Proceedings relating thereto, nor shall the Party or Parties distrained be deemed a Trespasser or Trespassers *ab initio* on Account of any Irregularity which shall be afterwards done by the Party or Parties distraining; but that the Party or Parties so aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damage in an Action on the Case.

Limitation of Actions.

LXIII. Provided always, and be it further enacted, That no Action or Suit shall be commenced or prosecuted against any Person or Persons, for any Thing done or to be done by virtue or in pursuance of this Act, until after Thirty Days Notice thereof in Writing, signed by the Party or Parties aggrieved, shall have been given to the Party or Parties complained of, or left at his, her, or their usual Place or Places of Abode, thereby setting forth the Cause of such Action or Suit, nor after sufficient Satisfaction or Tender thereof has been made to the Party or Parties aggrieved, nor after Six Calendar Months next after the Fact committed, or the Cause of such Action shall have arisen; and every Action commenced and prosecuted against any Person or Persons for any Thing done in pursuance of this Act, shall be brought and laid in the said County of *Norfolk*, and not elsewhere, and the Defendant or Defendants in every such Action or Suit shall and may plead, at his or their Election, specially or the General Issue, and if in Replevin, may justify and avow by virtue of this Act, as Persons acting by Authority of the Commissioners of Sewers are enabled to do, and give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance or by the Authority of this Act; and if, upon the Trial of such Action or Suit, it shall appear to have been so done, or that such Action or Suit shall be brought before the Expiration of Thirty Days next after such Notice shall have been given as aforesaid, or after sufficient Satisfaction made or tendered as aforesaid, or after the Time limited for bringing the same as aforesaid, or be brought or laid in any other County than as aforesaid, then and in every of the said Cases the Jury shall find a Verdict for the Defendant or Defendants, Avowant or Avowants; and in all Cases where a Verdict shall be found for any Defendant or Defendants, Avowant or Avowants, in any such Action or Suit, or the Plaintiff or Plaintiffs therein, shall discontinue the same after the Defendant or Defendants

ſhall have appeared thereto, or ſhall be nonſuited, or if upon Demurrer Judgement ſhall be given againſt the Plaintiff or Plaintiffs, then and in every ſuch Caſe the Defendant or Defendants, Avowant or Avowants, ſhall recover Treble Coſts, and have ſuch and the like Remedy for recovering the ſame, as any Defendant or Defendants, Avowant or Avowants, hath or have for recovering Coſts of Suit in any other Caſe by Law.

Perſons aggrieved may appeal to the Quarter Seſſions.

LXIV. And be it further enacted, That if any Perſon or Perſons, or Body or Bodies Politick, Corporate or Collegiate, ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done in purſuance of this or the ſaid recited Act, (other than and except ſuch Orders and Determinations of the ſaid Commiſſioner for Incloſure, as are herein or by the ſaid recited Act declared to be final or concluſive, and except in Caſes wherein 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 Juſtices at the General Quarter Seſſions of the Peace which ſhall be holden for the ſaid County of *Norfolk*, 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, in caſe the Appeal ſhall be made againſt any Act or Determination of the ſaid Commiſſioner for Incloſure, or to the Clerk of the ſaid Special Commiſſioners, in caſe the Appeal ſhould be made againſt any Act or Determination of the ſaid Special Commiſſioners, Fourteen Days Notice in Writing of ſuch Appeal, and of the Matter thereof, and the Juſtices (not intereſted in the Premiſes) at the 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 all the Parties concerned; but in caſe any 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.

Not to prejudice Sir George Berney Brograve's Navigable Cut.

LXV. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend to prejudice or interfere with a Navigable Cut, which hath been lately made by Sir *George Berney Brograve* Baronet, over Part of the ſaid Commons and Waſte Grounds hereby intended to be divided and incloſed, nor with the Right of the ſaid Sir *George Berney Brograve*, his Heirs and Aſſigns, and his and their Tenants, of paſſing and repaſſing with Boats, Lighters, and other Veſſels, from the ſaid Navigable Cut, in, to, through, over, and upon certain Waters in *Horſey* aforeſaid, called *Horſey Mere*, in ſuch and the ſame Manner as if this Act had not been made.

General Saving.

LXVI. Saving always to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and to all and every Perſon or Perſons, Body or Bodies Politick,

Politick, Corporate or Collegiate, his, her, or their Heirs, Succeſſors, Executors, and Adminiſtrators, (ſave and 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 or intended to be barred and deſtroyed, or extinguiſhed, and all Perſons reſpectively claiming under the mor 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, allotted, and incloſed, in caſe this Act had not been made.

Publick Act.

LXVII. 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 being ſpecially pleaded.

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