ANNO QUINQUAGESIMO

GEORGII III. REGIS.

Cap. 127.

An Act for incloſing Lands in the Pariſh of *Leake*, in the County of *Lincoln*, and for providing for the Repair of the New Sea Bank within the ſaid Pariſh. [24th *May* 1810.]

WHEREAS there are in the Pariſh of *Leake* in the County of *Lincoln*, certain Open Fields and Ings, Commonable Lands and Waſte Grounds: And whereas *Frances Preſton* Spinſter, is Lady of the Manor and Soke of *Skirbeck*, late Parcel of the Honour of *Richmond*, and comprizing amongſt other Pariſhes the ſaid Pariſh of *Leake*, and as ſuch claims to be excluſively entitled to the Soil of the Commonable Lands and Waſte Grounds within the ſaid Pariſh, and all other Manerial Rights therein: And whereas the Governors of the Goods, Poſſeſſions and Revenues of the Free Grammar Schools of *Robert Johnſon* Clerk, and of the Two Hoſpitals of *Chriſt* in *Oakham* and *Uppingham* in the County of *Rutland*, are Impropriators of the Great and Small Tythes within the ſaid Pariſh, and are alſo Patrons of the Vicarage of *Leake* aforeſaid; and the Reverend *Richard Holgate* Clerk is the preſent Vicar thereof, and as ſuch is entitled to Two Meſſuage, and certain incloſed and Open Field Lands in the ſaid Pariſh of *Leake*, and in reſpect thereof claims to be entitled to certain Rights of Common in, over and upon the ſaid Commonable Lands and Waſte Grounds, and is alſo entitled to an annual Compoſition or Stipend of Forty Marks, iſſuing and payable out of the ſaid Tythes belonging to the ſaid Impropriators, for ſerving the ſaid Vicarage: And whereas the ſaid *Frances Preſton*, the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals, the

Reverend *John Hallam* Doctor in Divinity, the Reverend *Charles Gery* Clerk, *Francis Chaplin* Esquire, *Thomas Fydell* Esquire, *John Linton* Esquire, *Richard Elmhirst* Esquire, *William Waite*, *Thomas Pocklington Miller*, *John Bland* and others, are Owners and Proprietors of or interested in the said Open Fields, Ings, Commonable Lands and Waste Grounds, and are also Owners and Proprietors of ancient inclosed Lands in the Parish of *Leake* aforesaid: And whereas an Act was passed in the Forty-

41 G. 3. c. 142. first Year of the Reign of His present Majesty, intituled, *An Act for dividing and allotting certain Fens called* the East *and* West Fens *in the County of* Lincoln, whereby certain Tracts of Fen Lands, Moors or Marsh Grounds in the said County of *Lincoln*, called the *East* and *West Fens*, whereon the Owners and Proprietors of Houses, Toftsteads, Lands and Grounds in the said Parish of *Leake*, and divers other Parishes, Townships and Places therein mentioned, had and exercised certain Rights and Common and Pasture, are directed to be divided and allotted by the Commissioners acting under the said Act, unto and for the Use and Benefit of the Owners and Proprietors of Houses, Toftsteads, Lands and Grounds in the said Parish of *Leake*, and in the several other Parishes, Townships and Places having Right of Common on the said Fens, in Parochial or General Allotments, in such Manner and under such Powers and Authorities, and subject to such Rules, Orders and Directions as in the said Act are mentioned and expressed: And whereas another Act was passed in the

41 G. 3. c. 109. Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the Lands and Grounds of the several Proprietors in the said Open Fields and Ings in the said Parish of *Leake* lie intermixed and dispersed, and are in their present State incapable of any considerable Improvement, and it would be of Advantage to all Persons concerned if the same and the said Commonable Lands and Waste Grounds, and also the said Parochial or General Allotment or Allotments to be set out for the Owners and Proprietors of Houses, Toftsteads, Lands and Grounds in the said Parish of *Leake* under the said Act first herein recited, were to be divided and inclosed, and specific Shares thereof allotted to the several Persons respectively interested therein, and if the same Open Fields, Ings, Lands, Grounds and Allotment or Allotments, and also the inclosed Lands in the said Parish of *Leake* were discharged from Tythes, and all Moduses, Compositions and Payments in lieu thereof: And whereas there are within the said Parish of *Leake* certain Marsh Lands, which have lately been embanked and inclosed from the Sea, and belong to certain Proprietors and Owners of Lands fronting the same: And whereas it is expedient that Provision should be made for the future Repair and Support of such Sea Bank, and for better protecting the Lands so embanked and inclosed from Inundations from the Sea: But the several Purposes aforesaid cannot be effected without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the

Appointment of Commissioners. Authority of the same, That *Samuel Dickinson*, of *Thurganby* in the said County of *Lincoln*, Gentleman, *Jonathan Gibbons*, of *Uppingham* in the said County of *Rutland*, Gentleman, and *William Porter*, of *Freiston* in the said County of *Lincoln*, Gentleman, and their Successors, to be elected in

Manner

Manner hereinafter mentioned, ſhall be and they are hereby appointed Commiſſioners for ſetting out, dividing, allotting and incloſing all the ſaid Open Fields, Ings, Commonable Lands and Waſte Grounds, and alſo ſuch Parcel or Parcels of the ſaid Fens called the *Eaſt* and *Weſt Fens*, as ſhall be ſet out or allotted to and for the Owners and Proprietors of Houſes, Toftſteads, Lands and Grounds within the ſaid Pariſh of *Leake*, under or by virtue of the ſaid Act firſt herein recited, and for carrying this Act into Execution, ſubject to the Rules, Regulations and Directions hereinafter contained, and ſubject to ſuch of the Powers, Regulations, Reſtrictions and Proviſions contained in the ſaid Act ſecondly herein recited, as are not controuled by or repugnant to any of the Clauſes, Proviſions or Regulations contained in this Act; and that the Notices required to be given of ſetting out publick and private Roads, and of reading and executing the Award of the ſaid Commiſſioners, and all other Notices by the ſaid Act ſecondly herein recited or this Act required to be given in ſome publick Newſpaper, ſhall be given and publiſhed in the *Lincoln*, *Rutland* and *Stamford Mercury*, or if that Newſpaper ſhall not then be publiſhed, in ſome other Newſpaper publiſhed or generally circulated in the ſaid County of *Lincoln*, and that all Powers and Authorities, Directions, Acts, Matters, and Things hereby given to or directed to be done by the ſaid Commiſſioners may be done and executed by or before any Two of them, and ſhall be as valid and effectual as if executed by or before all of them.

Notices to be given.

Two may act.

II. And be it further enacted, That if any of the Commiſſioners appointed by this Act or who ſhall have been elected in Manner hereinafter mentioned, ſhall, before the Execution of all the Powers and Authorities hereby in them reſpectively veſted, die, decline or refuſe to act or become incapable of acting, a new Commiſſioner in the Room of every ſuch Commiſſion ſo dying, declining or refuſing to act or becoming incapable of acting ſhall be elected in Manner following; (that is to ſay) if the ſaid *Samuel Dickinſon* ſhall die, decline or refuſe to act, or become incapable of acting, it ſhall be lawful for the ſaid *Frances Preſton* or the Lady or Lord of the ſaid Manor or Soke of *Skirbeck*, or her or his known Agent or Attorney, by Writing under her or his Hand to appoint a Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Room of the ſaid *Samuel Dickinſon*, and ſo from Time to Time as often as any Commiſſioner ſo to be appointed as laſt aforeſaid ſhall die, decline or refuſe to act or become incapable of acting, and that in caſe the ſaid *Jonathan Gibbons* ſhall die, decline or refuſe to act or become incapable of acting, it ſhall be lawful for the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals for the Time being, by Writing under their Hands, to appoint a Commiſſioner (not intereſted in the ſaid Diviſion and Incloſure) in the Room of the ſaid *Jonatham Gibbons*, and ſo from Time to Time as often as any Commiſſioner ſo to be appointed as laſt aforeſaid ſhall die, decline or refuſe to act or become incapable of acting; and that in caſe the ſaid *William Porter* ſhall die, decline or refuſe to act or become incapable of acting, it ſhall be lawful for the Majority in Value, (ſuch Value to be aſcertained by the Land Tax Aſſeſſment) of the Proprietors and Perſons intereſted in the Lands and Grounds directed by this Act to be divided and incloſed, or their known Agents or Attornies, (except the ſaid *Frances Preſton* or the Lady or Lord of the ſaid Manor or Soke of *Skirbeck*, and the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals reſpectively for the Time being,) who ſhall be preſent

Appointment of new Commiſſioners.

present at a publick Meeting to be held for that Purpose in the Parish Church of *Leake* aforesaid, in pursuance of a Notice to be given by Writing to be affixed on One of the outer Doors thereof, at least Fourteen Days before such Meeting shall be held, by Writing under their Hands to appoint a Commissioner not interested in the said Division and Inclosure, in the Room of the said *William Porter*, and so from Time to Time as often as any Commissioner so to be appointed by the said Proprietors shall die, decline or refuse to act or become incapable of acting; and in case the said respective Parties or any of them shall make default in appointing any such new Commissioner within Two Calendar Months after the Death of any Commissioner, or after his declining or refusing to act or becoming incapable of acting shall be known, then the surviving or remaining Commissioners or Commissioner shall and they and he are and is hereby required from Time to Time, by Writing under their or his Hands or Hand, within One Calendar Month after the Expiration of the said Two Calendar Months allowed to the respective Parties for appointing such new Commissioner or Commissioners as aforesaid, to appoint a Commissioner (not interested in the said Division and Inclosure) in the Room of every Commissioner so dying, declining or refusing to act, or becoming incapable of acting as aforesaid; and every Commissioner, to be appointed as aforesaid, shall have the like Power and Authority as the Commissioner in whose Place he shall be appointed was invested with by virtue of this Act.

Appointment of Clerk.

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

Commissioners' Allowance.

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

Commissioners and Parties to pay their own Expences at Meetings.

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

Commissioners to give Notice of Meetings; and

VI. And be it further enacted, That the said Commissioners shall cause Notice to be given in Writing to be affixed upon the principal outer Door of the said Church, of the Time and Place of their First and every other Meeting for the Execution of this Act, at least Seven Days before any such Meeting shall be held (Meetings by Adjournment only excepted); and that the said Commissioners shall and may adjourn any such Meeting from Time to Time as they shall see Occasion for the further Execution of this Act; and in case two of the said Commissioners shall not meet at the Time and Place appointed for any Meeting, or to which

may adjourn.

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any Meeting ſhall be adjourned, it ſhall be lawful for the Commiſſioner preſent at ſuch Time and Place to adjourn the ſaid Meeting to be held on any future Day not exceeding Twenty-one Days from the Day of Adjournment, at the ſame or any other Place, and the Commiſſioner making ſuch Adjournment is hereby required to give Notice thereof to the abſent Commiſſioners; and in caſe no One of the ſaid Commiſſioners ſhall appear at ſuch Meeting, then the Clerk or Clerks to the ſaid Commiſſioners ſhall and may adjourn the ſaid Meeting to and appoint the ſaid Commiſſioners to meet at the Place where the laſt Meeting was appointed to be holden on that Day Three Weeks next after the Day on which ſuch laſt Meeting was appointed to be holden, and ſhall, and he or they is and are hereby required forthwith to give Notice of ſuch Adjournment to the ſaid Commiſſioners.

Clerk to adjourn.

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

Place of Meeting.

VIII. Provided always, and be it further enacted, That nothing in the ſaid Act ſecondly herein recited contained ſhall extend to require the Commiſſioners for executing this Act or any Surveyor or Surveyors to be by them appointed, to make or cauſe to be made any Survey, Admeaſurement or Plan of the ſaid Parochial or General Allotment and other Lands and Grounds hereby directed to be divided and incloſed, or of any of the old incloſed Lands or Grounds within the ſaid Pariſh of *Leake*, unleſs the ſaid Commiſſioners ſhall deem ſuch Survey, Admeaſurement or Plan neceſſary or expedient for the Purpoſes of the ſaid Act ſecondly herein recited, or of this Act.

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

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

Commiſſioners to determine Differences; not Titles.

X. And be it further enacted, That in caſe the ſaid Commiſſioners ſhall, upon the Hearing and Determination of any Claim or Claims, or Objection or Objections to be delivered to them in purſuance of this Act or the ſaid Act ſecondly herein recited, ſee cauſe to award any Coſts, it ſhall be lawful for the ſaid Commiſſioners and they are hereby empowered, upon Application made to them for that Purpoſe, to ſettle and award ſuch Coſts and Charges as they ſhall think reaſonable, to be paid to the Party in whoſe Favour any Determination of the ſaid Commiſſioners ſhall be made, by the Perſons or Perſon whoſe Claim or Claims or Objection or Objections ſhall be thereby diſallowed or over-ruled; and in caſe the Perſon or Perſons who ſhall be liable to pay ſuch Coſts and Charges ſhall neglect or refuſe to pay the ſame on Demand, then and in ſuch caſe it ſhall be lawful for the ſaid Commiſſioners, and they are hereby authorized and required by Warrant under their Hands and Seals, directed to any

Power to award Coſts.

Perſon whomſever, to cauſe ſuch Coſts and Charges to be levied by Diſtreſs and Sale of the Goods and Chattels of the Perſon or Perſons ſo neglecting or refuſing to pay the ſame, rendering the Overplus (if any) upon Demand to the Perſon or Perſons whoſe Goods and Chattels ſhall have been ſo diſtrained and ſold, after deducting the Coſts and Charges attending ſuch Diſtreſs and Sale.

Power to try diſputed Claims at Law.

XI. Provided always, and be it further enacted, That in caſe any Perſon or Perſons, Body or Bodies Politick or Corporate, intereſted or claiming to be intereſted in the ſaid intended Diviſion and Incloſure, ſhall be diſſatisfied with any Determination of the ſaid Commiſſioners touching or concerning any Claim or Claims of Rights of Common Tythes, Moduſes or other Rights or Intereſts in, over or upon the ſaid Open Fields, Ings, Commonable Lands and Waſte Grounds or any Part thereof, and ſhall by Writing under his or their Hand or Hands, or the Hand or Hands of his, her or their known Agent or Attorney, or under their common Seal reſpectively, ſignify the ſame to the ſaid Commiſſioners within Two Calendar Months next after any ſuch Determination ſhall have been made and ſignified by Writing under the Hands of the ſaid Commiſſioners, to the Perſon or Perſons, Body or Bodies Politick or Corporate againſt whom the ſame ſhall have been ſo made, or to his, her or their known Agent or Attorney, it ſhall be lawful for the Perſon or Perſons, Body or Bodies Politick or Corporate ſo diſſatisfied with ſuch Determination, to have the Subject of ſuch Claim or Objection in reſpect of which ſuch Determination ſhall be made, tried at Law by an Action to be brought by him, her or them againſt any Perſon or Perſons, Body or Bodies Politick or Corporate, in whoſe Favour any Determination ſhall have been ſo made, or againſt the ſaid Commiſſioners, upon a feigned Iſſue to be ſettled by the proper Officer of the Court where ſuch Action ſhall be brought, in caſe the Parties differ about the ſame, ſuch Action to be brought within Three Calendar Months next after any ſuch Determination ſhall have been made, and Notice thereof given as before directed; and the Defendant and Defendants in ſuch Action ſhall and is and are hereby required to name an Attorney or Attornies who ſhall appear thereto or file Common Bail, and accept one or more Iſſue or Iſſues, by which the Matter of ſuch Determination of the ſaid Commiſſioners may be tried, and the Plaintiff or Plaintiffs ſhall thereupon proceed in ſuch Action ſo as to have the ſame tried and determined at the Firſt or Second Aſſizes to be holden for the ſaid County of *Lincoln* next after the Commencement of ſuch Action; and the Verdict of the Jury on ſuch Trial ſhall be binding, final and concluſive upon all the Parties intereſted therein, unleſs the Court wherein ſuch Action ſhall be brought ſhall ſet aſide ſuch Verdict and order a new Trial to be had thereupon, which it ſhall be lawful for the Court to do as is uſual in other Caſes, and alſo upon ſufficient Cauſe ſhewn to put off the Trial of ſuch Iſſue; and that after ſuch Verdict ſhall have been given and final Judgment obtained thereon, the ſaid Commiſſioners ſhall and they are hereby required to act in conformity thereto, and to allow or diſallow the Claim or Claims thereby determined, according to the Event of ſuch Trial or Trials: Provided always, that it ſhall be lawful for the ſaid Commiſſioners to retain or pay all ſuch Coſts, Charges and Expences as they ſhall incur or be put unto or which ſhall be recovered againſt them in or by reaſon or in conſequence of any ſuch Action or Actions, out of any Monies which ſhall come

to

to their Hands for the Purpoſes of this Act; provided that all ſuch Determinations of the ſaid Commiſſioners as ſhall not be objected to by ſuch Notice to be given to the ſaid Commiſſioners as aforeſaid, or being ſo objected to, and the diſſatisfied Party not cauſing ſuch Action at Law to be brought and proceeded in as aforeſaid, ſhall be abſolutely final and concluſive.

Determination of Commiſſioners not objected to, to be final.

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

If Parties die Proceedings not to abate.

XIII. Provided always, and be it further enacted, That if any Perſon or Perſons in whoſe Favour any ſuch Determination as aforeſaid ſhall have been made, and againſt whom any ſuch Action or Actions might have been brought if living, ſhall die before any ſuch Action or Actions ſhall have been brought, and before the Expiration of the Time herein before limited for bringing ſuch Action or Actions, it ſhall be lawful for the Perſon or Perſons, Bodies Politick or Corporate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk or Clerks of the ſaid Commiſſioners with Proceſs for commencing ſuch Action or Actions, in 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.

Proviſion in caſe of Death of Parties before Actions brought.

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

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

XV. And be it further enacted, That in caſe it ſhall appear to the ſaid Commiſſioners that there are any publick Highways, Bridle Roads or Footways in, through, over or on the Sides of any of the ſaid old incloſed Land or other Lands within the ſaid Pariſh of *Leake*, which may in the Judgment of the ſaid Commiſſioners be diverted and turned without Inconvenience to the Publick into any other publick Highways, Bridle Roads or Footways, or be diverted or turned ſo as to make the ſame more convenient to the Publick, or be ſtopped up or deſtroyed as ſuperfluous and unneceſſary, it ſhall be lawful for the ſaid Commiſſioners (with the Concurrence and Order of Two Juſtices of the Peace acting in and for the Parts of *Holland* in the ſaid County of *Lincoln*, in Manner and ſubject

Commiſſioners may alter Roads through old Incloſures.

ſubject to Appeal as in this or the ſaid Act ſecondly herein recited is mentioned,) in and by their ſaid Award to order and direct ſuch publick Highways, Bridle Roads, or Footways to be diverted, altered, turned, ſtopped up or deſtroyed in ſuch Manner as the ſaid Commiſſioners ſhall think proper and reaſonable; and in caſe ſuch Highways, Bridle Roads or Footways ſo to be diverted, altered, turned, ſtopped up or deſtroyed, do not paſs through any of ſuch old incloſed Lands or other Lands, but on the Sides of the ſame, to ſell and diſpoſe of the Land and Soil of ſuch Roads or Ways, and apply the Money ariſing thereby towards repairing the publick Highways within the ſaid Pariſh.

Commiſſioners to make Drains.

XVI. And be it further enacted, That the ſaid Commiſſioners ſhall and may ſcour out, deepen, widen, amend and repair all ſuch ancient Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches and Tunnels in the ſaid Pariſh of *Leake*, and alſo ſhall and may make or cauſe to be made ſuch new Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches and Tunnels and other Requiſites, as well in, through, over and acroſs the ſaid Lands and Grounds hereby directed to be divided and incloſed, as alſo in, over and through any ancient Incloſures or other Lands or Grounds within the ſaid Pariſh of *Leake* as ſhall be neceſſary and proper (making reaſonable Satisfaction to all and every Perſon and Perſons who may ſuſtain any Damage thereby), of ſuch Dimenſions and in ſuch Directions reſpectively as the ſaid Commiſſioners ſhall think proper; and the ſaid Commiſſioners ſhall and may, and they are hereby directed and required, in and by any Writing or Writings under their Hands or in and by their Award, to order and determine by whom and at whoſe Expence, at what Time or Times and in what Manner the ſaid Drains, Ditches, Watercourſes, Banks, Sluices, Bridges, Staunches, Tunnels and other Requiſites, ſhall be made, ſcoured out, deepened, widened, amended, and repaired, and by whom the ſame ſhall afterwards be reſpectively cleanſed, ſcoured out, repaired and maintained: Provided always, that no ſuch Watercourſe ſhall be diverted or turned without the Conſent in Writing of the Owner or Owners of any incloſed Land from which any ſuch Watercourſe ſhall be diverted or turned, or into which the ſame ſhall be intended to be carried or conveyed: Provided alſo, that nothing herein contained ſhall extend or be conſtrued to extend to authorize or empower the ſaid Commiſſioners, or any Perſon or Perſons to whom any Part or Parts of the ſaid Lands and Grounds hereby directed to be divided and incloſed ſhall be allotted by virtue of this Act, to interfere, alter or meddle with the Banks, Drains, Sluices, Bridges, Tunnels, Engines or other Works of Drainage, made or to be made under or by virtue of an Act paſſed in the Second Year of the Reign of His preſent
4 G. 3. c. 32. Majeſty, intituled, *An Act for draining and preſerving certain Low Lands called the* Fens *lying on both Sides of the River* Witham, *in the County of* Lincoln, *and for reſtoring and maintaining the Navigation of the ſaid River from the High Bridge in the City of* Lincoln *through the Borough of* Boſton *to the Sea*; or under or by virtue of an Act paſſed in the ſaid Forty-firſt
41. G. 3. c. 135. Year of His preſent Majeſty, intituled, *An Act for the better and more effectually draining certain Tracts of Land called* Wildmore Fen *and the* Weſt *and* Eaſt Fens *in the County of* Lincoln; *and alſo the Low Lands and Grounds in the ſeveral Pariſhes, Townſhips and Places having Right of Common on the ſaid Fen, and other Low Lands and Grounds lying contiguous and adjoining thereto*; or under or by virtue of an Act paſſed in the Forty-third

Year

Year of His preſent Majeſty, intituled, *An Act for amending an Act paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, for more effectually draining certain Tracts of Land called* Wildmore Fen *and the* Weſt *and* Eaſt Fens *in the County of* Lincoln, *and other Low Lands and Grounds lying contiguous or adjoining thereto*; or to interfere, alter or meddle with any of the Ditches, Drains, Watercourſes, Banks, Sluices, Bridges, Staunches or Tunnels in the ſaid Pariſh of *Leake*, now under the Controul, Direction, Order or Juriſdiction of any Commiſſioners of Sewers; or any Law or Statute relating to Sewers. 43 G. 3. c. 118.

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

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

Allotment of Open Fields and Ings.

XVIII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required as ſoon as conveniently may be after the Plans, Maps or Surveys directed to be made by the ſaid Acts firſt and ſecondly herein recited or either of them, ſhall have been laid before them, to ſet out, divide and allot the ſaid Open Fields, Ings, Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed in Manner following; that is to ſay, in the firſt place after ſetting out ſuch Publick and Private Roads, Ways and Drains as are directed to be ſet out by this Act or the ſaid Act ſecondly herein recited, they ſhall ſet out and allot unto and for the ſaid *Richard Holgate* or the Vicar of the ſaid Pariſh of *Leake* for the Time being, as near to the Vicarage Houſe in *Leake* aforeſaid as conveniently may be, ſuch Part or Parts of the ſaid Open Fields and Ings hereby directed to be divided and incloſed, as ſhall in the Judgment of the ſaid Commiſſioners be equal in Value to and a full Compenſation for his Glebe Lands in the ſaid Open Fields and Ings, and ſhall then ſet out, divide and allot the Reſidue of the ſaid Open Fields and Ings unto and amongſt the ſeveral Perſons, Bodies Politick or Corporate intereſted therein at the Time of making ſuch Allotments, in proportion and according (Quantity, Quality, and Situation conſidered) to their ſeveral and reſpective Shares, Rights, Intereſts and Property therein; for and in lieu of and as a Compenſation for all ſuch their ſaid ſeveral Shares, Rights, Intereſts and Property, to be ſettled and aſcertained by ſuch Ways and Means as to the ſaid Commiſſioners ſhall ſeem moſt proper, expedient and neceſſary in that Behalf.

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

XIX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out and allot unto the ſaid *Frances Preſton* and her Heirs as Lady of the Manor and Soke of *Skirbeck* late Parcel of the Honor of *Richmoad* aforeſaid, ſuch Part or Parts of the Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed, (except the intended Parochial or General Allotment or Allotments in the *Eaſt* and *Weſt Fens* for the Manerial Intereſt, wherein Compenſation is directed to be made under the Authority of the ſaid Act firſt herein recited), as in the Judgment of the ſaid Commiſſioners ſhall be equal in value to One-thirty-fifth Part of all ſuch Commonable Lands and Waſte Grounds (except as aforeſaid) in lieu, bar and ſatisfaction of and for her Manerial Rights and Intereſts in or to the Soil of ſuch Commonable Lands and Waſte Grounds.

Allotment for Tythe of Common.

XX. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required, after they ſhall have ſet out ſuch Parts of the ſaid Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds as ſhall be neceſſary for the Publick and Private Roads and Drains directed to be ſet out by this Act or by the ſaid Act ſecondly herein recited in or over the ſame, to ſet out and allot unto the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals for the Time being as Impropriators of the ſaid Pariſh of *Leake*, ſuch Plots or Parcels of the ſaid Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds as ſhall in the Judgment of the ſaid Commiſſioners be equal in value to One-ninth Part of ſuch Parochial or General Allotment or Allotments, and to One-ninth Part of the Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed.

Allotment of the Reſidue.

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

Moiety

Moiety or Half Part of the ſaid Commonable Lands and Waſte Grounds within the ſaid Pariſh of *Leake* unto and amongſt the Owners and Proprietors of Lands and Grounds within the ſaid Pariſh who are entitled to ſuch Common Right Houſes as aforeſaid in the ſaid Pariſh, in proportion and according to the Value of their reſpective Lands and Grounds.

Tythes. XXII. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby authorized and required to ſet out and allot unto the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals for the Time being (Impropriators of the ſaid Pariſh of *Leake*,) from and out of the ſaid Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds hereby directed to be divided and incloſed, in ſuch Situation as ſhall be moſt convenient to the ſaid Governors conſiſtently with the fair Intereſt of the Proprietors therein, ſuch Plots or Parcels of the ſame Parochial or General Allotment or Allotments, Commonable Lands and Waſte Grounds as in the Judgment of the ſaid Commiſſioners ſhall be equal in Value to One-fifth Part of all the Arable Lands within the ſaid Pariſh of *Leake*, which were in Tillage or in a Courſe of Tillage between the Sixth Day of *April* One thouſand eight hundred and nine, and the Fifteenth Day of *March* One thouſand eight hundred and ten, and to Two-ſeventeenth Parts of all other Lands and Grounds in the ſaid Pariſh of *Leake* (except the Commonable Lands and Waſte Grounds for the Tythes whereof Compenſation is hereinbefore directed to be made as aforeſaid), which ſaid ſeveral Allotments hereinbefore directed to be ſet out for the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals as Impropriators as aforeſaid, ſhall and are hereby declared to be in lieu and in full Satisfaction and Compenſation for all Tythes both great and ſmall, and all Moduſes, Compoſitions, and other Payments in lieu of Tythes, ariſing, renewing, and payable out of and from all and every the Open Fields, Ings, Commonable Lands, and Waſte Grounds and other Open, Incloſed and Embanked Lands and Grounds whatſoever in the ſaid Pariſh of *Leake*, and alſo out of or from the ſaid Parochial or General Allotment or Allotments, and every Part thereof reſpectively (Surplus Fees, *Eaſter* Offerings, and Mortuaries excepted), ſubject nevertheleſs to the Deduction in reſpect of Moduſes hereinafter mentioned.

Directing the Right to certain Tythes to be determined by an Iſſue at Law. XXIII. And whereas the Proprietors or Occupiers of ſuch Part of the ſaid Open Fields, Ings, and other Lands and Grounds, within the ſaid Pariſh of *Leake* as are not in Tillage, claim to be diſcharged from the Payment of Tythes in Kind, in reſpect of ſuch Open Fields, Ings, Lands, and Grounds, by means of certain Moduſes and other Compoſitions payable to the ſaid Governors of the Free Grammar Schools and Hoſpitals in lieu of ſuch Tythes, which Claim the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals deny, and claim to be entitled to Tythes in Kind growing and ariſing upon ſuch Parts of the ſaid Open Fields, Ings, Lands and Grounds; be it therefore enacted, That for the Purpoſe of finally ſettling and determining the Validity of all Moduſes, Compoſitions, or other Payments in lieu of Tythes in Kind, it ſhall and may be lawful for the Parties who for the Time being, ſhall be immediately intereſted therein, or any of them, to have the ſame tried at Law at the firſt or ſecond Aſſizes to be holden for the County of *Lincoln*, next after the paſſing of this Act, in one or more feigned Iſſue or Iſſues, the Action or Actions for that Purpoſe to be commenced in one of His Majeſty's Courts of Record at *Weſtminſter*, by the ſaid Governors of the ſaid Free Grammar Schools

and

and Hoſpitals for the Time being againſt the ſaid *John Linton*, or ſome other or others of the Parties ſo for the Time being immediately intereſted in ſuch Moduſes, Compoſitions, or other Payments in lieu of Tythes as aforeſaid as ſoon as conveniently may be after the paſſing of this Act, and the Defendant or Defendants in ſuch Action or Actions ſhall forthwith name an Attorney or Attornies who ſhall appear or file Common Bail, and accept of One or more Iſſue or Iſſues whereby ſuch Diſputes or Queſtions may be properly tried and determined, the Form of which Iſſue or Iſſues ſhall be ſettled by the proper Officer of the Court in which the ſaid Action or Actions ſhall be brought if the ſaid Parties differ about the ſame; and the Verdict or Verdicts which ſhall be given in ſuch Action or Actions, provided the ſame ſhall be to the Satisfaction of the Court in which the ſaid Action or Actions ſhall be brought, ſhall be final and concluſive to all Perſons and Bodies Politick and Corporate whomſoever intereſted in the ſaid Diviſion and Incloſure, and the Coſts of the Plaintiffs in ſuch Action or Actions ſhall be paid by the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals, and of the Defendant or Defendants in ſuch Action or Actions by the other Parties intereſted; and the Allotments to be made to the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals for the ſaid Tythes or Moduſes, Compoſitions or other Payments, in purſuance of this Act, ſhall be regulated by and made conformable to the Verdict or Verdicts in ſuch Action or Actions.

Deduction in a certain Event to be made from Tythe Allotments.

XXIV. Provided always, and be it further enacted, That in caſe by ſuch Determination to be made as aforeſaid, the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals ſhall be entitled only to ſuch Moduſes, Compoſitions, or other Payments in lieu of Tythes as aforeſaid, then the ſaid Commiſſioners ſhall and they are hereby authorized and required to deduct from and out of the ſaid Tythe Allotments, ſuch Part or Parts of the ſaid Tythe Allotments as ſhall in the Judgment of the ſaid Commiſſioners be equal to the Difference in Value between ſuch Moduſes, Compoſitions, and other Payments and ſuch Tythes as aforeſaid, which ſaid Part or Parts ſo to be deducted from and out of the ſaid Tythe Allotments as aforeſaid, ſhall be ſet out, allotted, and divided by the ſaid Commiſſioners unto and amongſt the ſeveral Perſons entitled to the Benefit of or intereſted in ſuch Moduſes, Compoſitions, or other Payments in lieu of Tythes as aforeſaid, according and in proportion to their ſeveral and reſpective Rights and Intereſts therein.

Reſtriction as to Deductions from Tythe Allotments.

XXV. Provided always, and be it further enacted, That any Deduction from the ſaid Tythe Allotments in reſpect of any Modus, Compoſition or other Payment in lieu of Tythes for Lands and Grounds within the ſaid Pariſh of *Leake*, in the Occupation of Out-towners, or Perſons not reſiding within the ſame Pariſh, ſhall be made only in reſpect of ſuch Lands as were ſo occupied between *Lady-day* One thouſand eight hundred and eight, and *Lady-day* One thouſand eight hundred and nine.

Reſtriction as to Deductions from Allotments not exceeding Five Acres.

XXVI. Provided always, and be it further enacted, That nothing in this Act contained ſhall authorize or empower the ſaid Commiſſioners to ſet out or deduct any greater Part of the ſaid Parochial or General Allotments, Commonable Lands and Waſte Grounds, to which any Perſons may be entitled under the ſaid Act firſt herein recited in reſpect of any Houſe, Toftſtead or Lands, not exceeding in the whole Five Acres Statute

tute Measure, than will be equal in value to the Tythes of such House, Toftstead, and Lands, and for which Tythes Compensation is by this Act directed to be made: Provided also, that nothing herein contained shall restrain the said Commissioners from making Deductions from such Parts of the Parochial or General Allotments, Commonable Lands and Waste Grounds as last aforesaid, in case the Person or Persons entitled thereto shall also be entitled to other Parts of the said Parochial or General Allotments, Commonable Lands and Waste Grounds in respect of any other Estate or Property.

No Person to share the Parochial Allotments in the East and West Fens whose Rights are not allowed by the Commissioners under the said first recited Act for dividing the Fens into Parochial Allotments.

XXVII. Provided always, and be it further enacted, That no Owner or Proprietor of any House, Tofistead, Lands or Grounds in the said Parish of *Leake*, shall be deemed or considered to be entitled to any Right of Common or other Right whatsoever on the Parochial or General Allotment or Allotments to be set out for the said Parish of *Leake* under or by virtue of the said Act first herein recited, who shall not be allowed and determined to have Right of Common or other Rights in the said Fens called the *East* and *West Fens* on the Division thereof, and which Rights are not or shall not be set forth in the Award of the Commissioners made or to be made in pursuance of the said Act first herein recited.

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

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

Proprietors of old Inclosures who have not sufficient Lands to make Compensation for Tythes, to pay the Value thereof in Money to such Persons as the Commissioners shall appoint.

XXIX. Provided always, and be it further enacted, That in case there are any Houses, Toftsteads, Homesteads, Gardens, Orchards or Inclosed Lands, or Grounds in the said Parish of *Leake* subject or liable to the Payment of Tythes either great or small, or to any Modus or other Composition or Payment in lieu of Tythes, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient Quantity or Share of the said Parochial or General Allotment or Allotments, or of the said Commonable Lands and Waste Grounds hereby directed to be divided and inclosed, to make Compensation for such Tythes as hereinbefore directed, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons and at such Time or Times as the said Commissioners shall direct or appoint such Sum or Sums of Money as in the Judgment of the said Commissioners shall be a just and full Compensation and Satisfaction for the Tythes or other Payments in lieu thereof issuing or payable out of such Houses, Toftsteads, Homesteads, Gardens, Orchards or inclosed Lands or Grounds respectively, or such Part of the same for which the Proprietors thereof may not be possessed of Land sufficient to make Compensation for the Tythes thereof as aforesaid, and also such Sum and Sums of Money as the said Commissioners shall determine to be just and fair for the Proprietors of such old inclosed Lands to contribute towards defraying the Costs, Charges and Expences of obtain-

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

Tythes to be payable till Allotments made.

XXX. And be it further enacted, That the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals ſhall be entitled unto and ſhall receive and enjoy ſuch and the ſame Tythes, Moduſes, Compoſitions or other Payments in lieu thereof, until the Allotments hereinbefore directed to be made to them in lieu of Tythes, Moduſes, Compoſitions or Payments in lieu of Tythes ſhall have been ſet out and allotted, as they might, could or ought to have done in caſe this Act had not been made; and in caſe ſuch Tythes ſhall determine before the End of any current Year, it ſhall be lawful for the ſaid Commiſſioners to apportion the ſame between the ſaid Governors and the Tenants or Occupiers of Lands, Tenements and Hereditaments in the ſaid Pariſh of *Leake*, and to declare what Sum and Sums of Money ſhall be reſpectively paid to the ſaid Governors for the Fraction of the Year which ſhall elapſe prior to ſuch Determination.

XXXI. And

Tythe Allotments to be fenced.

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

Lands to be ſold for defraying Expences.

XXXII. And be it further enacted, That for providing a Fund for defraying the Coſts, Charges and Expences of obtaining this Act, and of incloſing the Allotment or Allotments hereby directed to be made to the Surveyors of the Highways within the Pariſh of *Leake*, and to the ſaid Governors of the ſaid Free Grammar Schools and Hoſpitals, and all the Coſts of ſurveying, admeaſuring, planning, valuing, dividing and allotting the Lands and Grounds hereby directed to be divided and incloſed, and of preparing the Award of the ſaid Commiſſioners, and all the Charges and Expences of the ſeveral Perſons to be employed by the ſaid Commiſſioners in and about the Premiſes, either before or after the Execution of the ſaid Award, and all the Expences of forming, completing and repairing the publick Carriage Roads and Highways to be ſet out and appointed by the ſaid Commiſſioners within the ſaid Pariſh of *Leake*, and all other Expences of carrying this Act and the ſaid Act ſecondly herein recited into Execution, it ſhall be lawful to and for the ſaid Commiſſioners and they are hereby authorized, empowered and required as ſoon as conveniently may be after the paſſing of this Act, from Time to Time to ſell and diſpoſe of ſuch Parts and Parcels of the ſaid Commonable Lands and Waſte Grounds, and of the ſaid Parochial or General Allotment or Allotments as they ſhall judge moſt proper and expedient, and as ſhall be requiſite for the Purpoſes aforeſaid, free and exempt from all and all Manner of Tythes whatſoever, in Lots not exceeding Ten Acres in each Lot, by Publick Auction to the higheſt Bidder or Bidders at ſome of their Meetings to be held in purſuance of this Act, of which publick Notice ſhall be given by the ſaid Commiſſioners in the *Lincoln, Rutland and Stamford Mercury* Three Weeks at the leaſt before ſuch Sale or Sale ſhall be made, and the Purchaſer and Purchaſers at every ſuch Sale ſhall immediately pay to the ſaid Commiſſioners One-tenth Part of his, her or their Purchaſe Money as and for a Depoſit, and ſhall enter into an Agreement to pay the Reſidue of ſuch Purchaſe Money at the Time to be limited by the Conditions of Sale of the ſaid Premiſes, into the Hands of the ſaid Commiſſioners, who are hereby authorized to give Receipts for the ſame; and alſo for the Money to be paid as and for a Depoſit as afore-

aforesaid: Provided always, that if any Purchaser having made such Deposit as aforesaid, shall not pay the whole of the Purchase Money within the Time appointed for the Payment thereof by the said Conditions of Sale the Money so deposited shall become forfeited to the said Commissioners, and shall be by them applied for the Purposes of this Act, and it shall be lawful for the said Commissioners, giving such Notice as aforesaid, to put up again to Sale such Lot or Lots for which the whole of such Purchase Money shall not have been paid, and so *toties quoties* until the same shall be sold, or the said Commissioners may if they think proper sell and dispose of such Lot or Lots by Private Contract for the best Price or Prices that can be gotten for the same; and all Lands to be sold under or by virtue of this Act on Payment of the full Purchase Money for the same, shall be conveyed as Freehold of Inheritance in Fee Simple free from Tythes as aforesaid, unto the Purchaser or Purchasers thereof respectively and a Conveyance or Conveyances of the same by Lease and Release made and executed by the said Commissioners shall be valid and effectual in the Law to vest the same in such Purchaser or Purchasers, and his, her and their respective Heirs and Assigns absolutely for ever, subject and liable to such Orders, Directions and Restrictions as shall be laid down and appointed by the said Commissioners in and by their Award by the said Act secondly herein recited directed to be made, and the said Commissioners shall after Payment of the Costs, Charges and Expences attending such Sale or Sales or in anywise relating thereto, pay and apply the Residue of the Monies arising therefrom for the Purposes aforesaid.

Application of Surplus Money.

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

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

XXXIV. Provided always, and be it further enacted, That in case the Money arising by such Sale or Sales shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Open Fields, Ings, Commonable Lands and Waste Grounds, or in any inclosed Lands which shall be discharged from Tythes by virtue of this Act (except the said Governors of the said Free Grammar Schools and Hospitals in respect of their Tythe Allotments hereby directed to be divided and inclosed), and shall be paid in such Shares and Proportions, within such Time and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; and in case any Person hereinbefore made subject to the

Payment

Payment of any Money towards such Charges or Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof within the Time to be appointed as aforesaid, or at any Time after upon Demand, the same shall and may be levied and recovered in the Manner directed by the said Act secondly herein recited.

Commissioners may borrow Money until Sale.

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

Encroachments within 30 Years to be deemed Part of the Waste.

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

To prevent cutting of Turf.

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

Allotment for Freehold Quit Rents.

XXXVIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot, and appoint unto the Lady or Ladies, Lord or Lords of any Manor or Manors within the said Parish of *Leake* entitled to any Chief Rents, Quit Rents, or Fee Farm Rents or other dry or unimproveable Rents, payable out of or from or in respect of any Freehold Houses, Toftsteads, Lands or Grounds situate, lying and being within the said Parish of *Leake*, such Parcel or Parcels of the said Lands and Grounds hereby directed to be divided and inclosed, which may be allotted to the respective Owners of such Freehold, Houses, Toftsteads, Lands or Grounds so subject to Chief Rents, Quit Rents, or Fee Farm Rents as aforesaid, as shall in the

Judgment of the ſaid Commiſſioners be equal in Value to or an Equivalent for all ſuch Chief Rents, Quit Rents or Fee Farm Rents, or other dry or unimproveable Rents; and the ſeveral Perſons to whom any ſuch Parcels or Parcel of Land ſhall be allotted, ſhall be ſeiſed and poſſeſſed thereof reſpectively to and for the ſame Uſes, Truſts, Eſtates, and Purpoſes, and ſubject to the ſame Charges and Incumbrances as ſuch Chief Rents, Quit Rents, or Fee Farm Rents, or other dry or improveable Rents would have been held for or under or been ſubject to in caſe this Act had not been made.

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

XXXIX. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, on Application being made to them in Writing by any of the Huſbands, Guardians, Truſtees, Committees, or Attornies of or for any of the ſaid Proprietors or Perſons intereſted in the Premiſes being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or by the Perſons acting as ſuch Guardians, Truſtees, Committees, or Attornies reſpectively, or by any of the ſaid Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and incloſed, or any Part thereof, who are or ſhall be Tenant or Tenants in Tail or for any Life or Lives, or on any other Contingency, or by any Truſtees or Feoffees for any Charitable, Parochial or other Uſes, or a competent Number of ſuch Truſtees or Feoffees or the major Part of them reſpectively in reſpect of any Lands held by them reſpectively upon truſt for any Charitable, Parochial or other Uſes, to ſell any Part of the Allotment or Allotments to be made from or out of any of the ſaid Lands and Grounds by virtue of this Act to ſuch incapacitated Proprietor or Proprietors, or other Perſon or Perſons by whom or on whoſe behalf any ſuch Application ſhall be made as aforeſaid, for the Purpoſe of raiſing a Sum of Money ſufficient to defray the Coſts, Charges, and Expences of fencing, incloſing, and ſubdividing his, her, or their Allotment or Allotments, and of making and completing ſuch Sale, and ſuch Sale ſhall be made by the ſaid Commiſſioners in ſuch and the ſame Manner, and ſubject to ſuch and the like Rules and Regulations as are mentioned and preſcribed in and by the ſaid Act ſecondly herein recited, in reſpect 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, ſhall be conveyed by the ſaid Commiſſioners at the Expence of ſuch Purchaſer or Purchaſers, unto and to the Uſe of or in Truſt for ſuch Purchaſer or Purchaſers, and his, her or their Heirs reſpectively, or as he, ſhe or they ſhall appoint, and ſhall be incloſed and held by ſuch Purchaſer or Purchaſers reſpectively in Severalty, and the Receipts of the ſaid Commiſſioners ſhall be a good and ſufficient Diſcharge to ſuch Purchaſer or Purchaſers for the ſaid Purchaſe Money, which ſhall be applied by the ſaid Commiſſioners in or towards defraying ſuch laſt mentioned Coſts, Charges and Expences; and if any Surplus ſhall remain in the Hands of the ſaid Commiſſioners, ſuch Surplus Money ſhall be applied and diſpoſed of in Manner directed by the ſaid Act ſecondly herein recited with reſpect to Money which is hereby directed to be paid into the Bank of *England*, for the Purchaſe or Exchange of any Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes, or of any Timber or Wood growing thereon, and which ought to be laid out in the Purchaſe of other Lands, Tenements and Hereditaments as therein mentioned: Provided always, that it ſhall not be lawful by virtue of this Act to raiſe by ſuch Sale any

any further or greater Sum of Money for the Purpoſe of defraying the Coſts, Charges and Expences of fencing, incloſing, and ſubdividing ſuch Allotment or Allotments as aforeſaid, than the Perſon or Perſons, Part of whoſe Allotment or Allotments ſhall be ſold as aforeſaid, would have been empowered or authorized to borrow or charge upon his, her or their Eſtate or Eſtates under or by virtue of the ſaid Act ſecondly herein recited for the Purpoſe of defraying the Coſts, Charges and Expences of obtaining and executing this Act, in caſe the Expences of obtaining and executing this Act had been directed to be paid in proportion by the Proprietors of Lands or Grounds to whom Allotments ſhall be made inſtead of being raiſed by Sale of Land as by this Act is directed.

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

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

becoming entitled to any ſuch Houſes, Toftſteads, Homeſteads, Gardens, Orchards, or incloſed Lands and Grounds, ſhall be liable to pay any further or larger Arrear of Intereſt than for Six Calendar Months preceding the Time when the Title to ſuch Poſſeſſion ſhall have commenced; and that every ſuch Grant, Mortgage, Surrender, Leaſe or Demiſe ſhall be good, valid and effectual in the Law for the Purpoſes thereby intended.

Exchanges to be made.

XLI. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot and award any Lands Tenements, or Hereditaments within the ſaid Pariſh of *Leake* in lieu of or in Exchange for any other Lands, Tenements, or Hereditaments, new Allotments or old Incloſures or other Lands or Grounds within the ſaid Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip or Place, provided that all ſuch Exchanges be aſcertained, ſpecified and declared in the ſaid Award of the ſaid Commiſſioners, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, Hereditaments and Premiſes which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietors or Proprietors, ſhall be a Body or Bodies Politick, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or ſpecial, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees, for Charitable or other Uſes, Huſbands, Committees or Attornies of or acting for any ſuch Proprietors or Owners as aforeſaid, who at the Time of making ſuch Exchange or Exchanges ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf or herſelf, ſuch Conſent to be teſtified in Writing under the Common Seal of the Body or Bodies Politick, Corporate or Collegiate, and under the Hands of the other conſenting Parties reſpectively; and all and every ſuch Exchange and Exchanges ſo to be made ſhall be good, valid and effectual in the Law to all Intents and Purpoſes whatſoever: Provided nevertheleſs, that no Exchanges ſhall be made of any Lands, Tenements or Hereditaments held in Right of any Church, Chapel or other Eccleſiaſtical Benefice, without the Conſent teſtified as aforeſaid of the Patron thereof, and of the Biſhop of the Dioceſe in which ſuch Lands, Tenements or Hereditaments ſo to be exchanged ſhall lie and be ſituate: Provided always, that all Coſts, Charges and Expences attending the making and completing of any Exchanges or Partitions, ſhall be paid and borne by the ſeveral Owners making ſuch Exchanges and Partitions, in ſuch Manner and in ſuch Proportions as the ſaid Commiſſioners ſhall by any Writing under their Hands or by their ſaid Award order and direct.

Coſts of Exchanges and Partitions how to be paid

Settlements not to be affected nor Wills revoked.

XLII. Provided always, and be it further enacted and declared, That nothing in this Act contained ſhall extend or be conſtrued or adjudged to extend to revoke, make void, annul or alter any Settlement, Deed, Will or Leaſe, or to prejudice any Perſon having any Right or Claim of Dower, Jointure, Annuity, Debt, Charge, or Incumbrance whatſoever, in, out of, upon or affecting any of the Lands, Tenements, or Hereditaments hereby directed to be divided and incloſed, or which ſhall be exchanged or aſſigned in Compenſation for any other Eſtate or Right in purſuance of this Act reſpectively, but as well the Lands allotted as the Tenements or other Hereditaments which ſhall be ſo aſſigned in Exchange or in Compenſation for another Eſtate or Right, ſhall immediately

ately after such Allotment, Exchange or Assignment shall be made, be vested, remain and enure, and the several Persons to whom the same shall be allotted, assigned or given in Exchange as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively, to, for and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations and Remainders, Conditions, Charges, Rents and Incumbrances, as the several Lands, Tenements and Hereditaments in respect whereof such Allotments, Assignments and Exchanges shall have been made, should or would have stood severally limited, settled, vested or subject or liable to, or have been held by in case the same had not been assigned or exchanged and this Act had not been made, save and except such Rents as shall have been compensated for and extinguished, and such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act or of the said Act secondly herein recited.

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

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

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

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

Leases at Rack Rent to be void.

Except Agreements to the contrary.

XLV. And be it further enacted, That all and every Lease and Leases, Agreements and Tenancies at Rack Rent now subsisting of any Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, or which shall by virtue of this Act or the said Act secondly herein recited be exchanged or discharged from Tythes, or Compositions for Tythes, and of all Lands, Tenements, or Hereditaments in the said Parish of *Leake* held therewith or included in such Lease or Leases respectively, unless covenanted or agreed in such Leases or any subsequent Agreements to the contrary, shall cease and be void at such Time or Times as the said Commissioners shall by Writing under their Hands order and direct, so as the respective Lessors or Landlords of such Lands, Tenements or Hereditaments do before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants for the Loss or Injury (if any) which they shall sustain by the Determination of such Leases respectively, as shall be mutually settled and agreed upon between them, or as the Commissioners

missioners being thereto required by either of the Parties shall ascertain and direct: Provided always, that if there shall be any Lease or Leases of Lands, Part of which shall lie within the Parish of *Leake* aforesaid and Part in any adjoining Parish or Parishes, all and every such Lease or Leases at Rack Rent now subsisting, so far as the same relate to the Premises in the said Parish of *Leake*, may and shall be vacated (except as aforesaid); but where any Lands shall have been taken in Exchange, which Lands shall be under Lease and wholly situated in any adjoining Parish or Parishes, the Lease or Leases of such last-mentioned Lands shall not be vacated.

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

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

Auditor of the Commissioners Accounts.

XLVII. And be it further enacted, That *Henry Gee*, of *Boston*, in the said County of *Lincoln*, Merchant, shall be and he is hereby appointed Auditor of the Accounts of the said Commissioners, and in case of his Death or Refusal to Act, then some other fit and proper Person, not interested in the Premises, shall be appointed Auditor for that Purpose, in like Manner as is hereinbefore provided for the Appointment of a new Commissioner in the Place of the said *William Porter*, and so from Time to Time as often as occasion shall require; and the Account of the said Commissioners for the Time being, containing a true Statement of all Sums by them received and expended, or due to them for their own Time, Trouble or Expences, shall at least Once in every Year from the passing of this Act (if required) until such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined by the said Auditor for the Time being, and the Balance by him stated in the Book of Accounts to be kept in the Office of the Clerk or Clerks to the said Commissioners; and that no Charge or Item in such Accounts shall be binding on the Parties concerned or be valid in Law unless the same shall be duly allowed by the said Auditor.

Money advanced for obtaining

XLVIII. And be it further enacted, That if any Person or Persons shall advance and pay any Money in Discharge of the Fees or other Expences

pences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the said Commissioners, together with lawful Interest for the same, out of the first Monies to be raised by virtue of this Act. the Act to be repaid with Interest.

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

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

LI. And be it further enacted, That after the passing of this Act the new Sea Bank so made as aforesaid, shall from Time to Time be under the Care and Inspection of, and as often as necessary shall be repaired and amended and kept in good Repair and Condition by, a Person to be appointed Surveyor thereof by a Majority in Value, such Value to be ascertained by the Land Tax Assessment of the several Proprietors for the Time being of the Lands and Grounds in the said Parish of *Leake*, situate and being within the said Sea Bank so made as aforesaid, and the ancient Sewers Bank in the said Parish of *Leake*, who shall be present at a Meeting to be held in the said Parish of *Leake*, on the *Thursday* in *Easter* Week in every Year, or in case there shall be an Equality in the Votes of the Proprietors then present, then the Proprietor present at such Meeting who shall be the Owner of the Greater Number of Acres of the same Lands and Grounds shall have the casting Vote; and that the Surveyor who shall be so appointed as aforesaid shall be allowed and paid such yearly or other Salary or Wages for his Trouble as shall be thought reasonable at the Time of his Appointment to his said Office; and in case it shall happen that no new or other Surveyor shall be appointed at such annual Meeting as aforesaid, then the former Surveyor shall continue in his said Office at the same Salary and Wages for his Trouble for the succeeding Year, unless he shall be desirous of resigning such Office, and of such his Desire shall have given publick Notice in the Parish Church of *Leake* aforesaid immediately after Divine Service, or on the Door of the Works to be under the Inspection of a Surveyor.

said

ſaid Church upon ſome *Sunday* at leaſt Three Weeks before the Time of holding ſuch annual Meeting.

New Surveyors to be appointed on Vacancies.

LII. And be it further enacted, That if the ſaid Surveyor ſo to be appointed as aforeſaid ſhall happen to die before the Expiration of the Year for which he ſhall have been appointed, or ſhall become incapable of executing his ſaid Office of Surveyor or miſconduct himſelf therein, then and in any of the ſaid Caſes it ſhall and may be lawful to and for any of the Proprietors for the Time being of the ſaid Lands and Grounds ſituate and being within the ſaid Sea Bank ſo made as aforeſaid, and the ſaid ancient Sewers Bank, to call a Meeting of the ſeveral Proprietors of the ſame Lands and Grounds (of which Meeting publick Notice ſhall be given in the ſaid Pariſh Church of *Leake* immediately after Divine Service, on ſome *Sunday* at leaſt Fourteen Days previous to ſuch Meeting) in order to chooſe a new Surveyor for the then Reſidue of the Year, and until the next annual Meeting of the Proprietors of the ſaid Lands and Grounds, and to remove the old Surveyor (in caſe of his becoming incapable of executing or miſconducting himſelf in his ſaid Office) and the Majority in value to be aſcertained as aforeſaid of ſuch Proprietors ſo aſſembled as aforeſaid, ſhall appoint another Surveyor, and the Surveyor who ſhall be then appointed ſhall be paid a Proportion of the Salary allowed to the old Surveyor, according to the Time which ſhall be then to come of the Year, and the Salary of the old Surveyor ſhall ceaſe at the Time of his Death or of his being removed from his Office as aforeſaid.

Surveyor may erect new Works.

LIII. And be it further enacted, That if it ſhall be neceſſary to make any Alteration in the ſaid Sea Bank now made, or to make any new Bank or Banks, Drain or Drains, Tunnels or other Works upon the ſaid Lands and Grounds ſituate and being within the ſaid Sea Bank ſo made as aforeſaid, and the ſaid ancient Sewers Bank as aforeſaid, for the better Protection and Drainage of the ſame, ſuch Alteration or new Bank or Banks, Drain or Drains, Tunnels or other Works, may from Time to Time be made by the Surveyor ſo to be appointed as aforeſaid, by the Order of the Majority in value to be aſcertained as aforeſaid of the Proprietors for the Time being of the Lands and Grounds laſt-mentioned, who ſhall be aſſembled at a Meeting to be held for the Purpoſe of determining upon ſuch Alteration or new Work, and which ſhall be called in the ſame Manner as is hereinbefore directed with reſpect to the calling of Meetings for the Purpoſe of chooſing a new Surveyor or removing an old one, except that Notice of ſuch Meeting ſhall be given for Three ſucceſſive *Sundays* on the Church Door of *Leake* aforeſaid previous to ſuch Meeting; and the Expences of making ſuch new Works ſhall be raiſed and paid by the Rate to be aſſeſſed and collected in the ſame Manner as is hereinafter directed with reſpect to the Rates for preparing the ſaid Sea Banks, Drains, Tunnels and other Works; and in caſe any ſuch Alterations or any new Work as aforeſaid ſhall be made, the ſame when made ſhall be kept in Repair, and may from Time to Time be altered in the ſame Manner as is hereinbefore directed with reſpect to the ſaid Sea Bank ſo made as aforeſaid.

LIV. And

And may levy Rates.

LIV. And be it further enacted, That for the better enabling any Surveyor to be appointed by virtue of this Act to raise Money for the Purpose of carrying into Execution the Powers hereby reposed in him, it shall and may be lawful to and for any Surveyor to be appointed by virtue of this Act, when and as often as Occasion shall require, to make an equal Rate or Assessment upon all and every the Proprietors of the said Lands and Grounds situate and being within the said Sea Bank, so made as aforesaid, and the said ancient Sewers Bank, which Rate or Assessment shall be allowed and signed, if they think proper, by a Majority in Value to be ascertained as aforesaid of the Persons interested in such Lands and Grounds who may be present at a Meeting to be called for that Purpose, in the same Manner as hereinbefore is mentioned with respect to the Choice of a new Commissioner by the Proprietors, such Majority not being less than Three in Number, and after such Rate or Assessment shall be made, signed and allowed as aforesaid, the same shall be collected and received by the Surveyor for the Time being; and in case any of the Proprietors for the Time being shall refuse or neglect to pay such Rate or Assessment immediately after the same shall be so made, signed and allowed (being first lawfully demanded of such Proprietors respectively, or of their Lessees or Tenants of the Lands and Grounds assessed for the Time being), then it shall be lawful to and for any Justice of the Peace acting in and for the said Parts of *Holland* in the said County of *Lincoln* to make Enquiry of such Default by summoning (and for such Purpose Notice in Writing left at the usual Residence of the Person intended to be summoned or of his Lessee or Tenant, or affixed on some conspicuous Part of the said Lands, shall be a good Summons) such Proprietor or Lessee or Tenant of whom such Rate or Assessment shall have been demanded to appear before such Justice, and if the Person or Persons so summoned shall be adjudged liable to pay the said Rate or Assessment either by his own Confession or upon the Oath of the Surveyor for the Time being, or of any other competent and credible Witness (which Oath the said Justice is hereby empowered to administer) or shall not appear pursuant to such Summons, the said Justice shall and is hereby required to levy the said Rate or Assessment by Distress and Sale of the Cattle, Stock, Goods and Chattels to be found and taken upon the Lands and Grounds in respect whereof such Rate or Assessment shall be and remain unpaid, in the same Manner as such Cattle, Stock, Goods and Chattels might be distrained and sold for Rent in Arrear, together with the reasonable Costs and Charges attending such Summons, Distress and Sale, to be settled and allowed by the said Justice, rendering the Overplus (if any) on Demand to the Owner or Owners of such Cattle, Stock, Goods and Chattels.

To be signed by Proprietors.

Lands untenanted to remain a Security for Taxes.

LV. Provided always, and be it further enacted and declared, That in case any Part of the said Lands and Grounds situated and being within the said Sea Bank so made as aforesaid and the said ancient Sewers Bank, shall at any Time hereafter be untenanted or unoccupied so that no sufficient Distress can be made for levying the said Rates or Assessments, then the Lands and Grounds chargeable therewith shall always remain a Security for Payment thereof, and all Cattle, Stock, Goods and Chattels which shall at any Time hereafter be found thereon, shall and may be distrained, impounded, kept and sold in Manner aforesaid until all Arrears of the said Rates or Assessments, and the Charges incident to

ſuch Diſtreſs, ſhall be fully paid and ſatisfied; and in caſe any Leſſee or Leſſees, Tenant or Tenants of the Lands and Grounds laſt-mentioned or any Part thereof ſhall advance and pay ſuch Rates or Aſſeſſments, it ſhall and may be lawful to and for ſuch Leſſee or Leſſees, Tenant or Tenants reſpectively (unleſs there ſhall be any Agreement to the contrary between him, her, or them and his, her or their Landlord or Landlords) to reimburſe him, her or themſelves reſpectively out of his, her or their reſpective Rent or Rents to be or become payable for the Lands in reſpect whereof ſuch Payments ſhall have been made, and that a Tender to the Proprietor or Proprietors of ſuch Lands or Grounds of the Receipt or Receipts of the Surveyor appointed as aforeſaid (and ſuch Receipt or Receipts ſuch Surveyor ſhall and he is hereby required to give on Payment of ſuch Rates or Aſſeſſments) for ſuch Payment or Payments made by ſuch Leſſee or Leſſees, Tenant or Tenants, ſhall be conſidered, deemed, and taken in Part of Payment of ſuch Rent or Rents reſpectively, or ſo much thereof for which ſuch Receipt or Receipts ſhall be ſo given.

Surveyor to account.

LVI. And be it further enacted, That every Surveyor ſo to be appointed as aforeſaid, or the Executors or Adminiſtrators of ſuch Surveyors reſpectively, ſhall annually at the ſaid Meeting to be held in the ſaid Pariſh of *Leake*, or oftener if required by Five of the ſaid Proprietors at leaſt, render and deliver to the Proprietors aſſembled at the ſaid annual Meeting or at ſome other Meeting to be called for the Purpoſe of examining and ſettling the Accounts of the ſaid Surveyor, a true, exact and juſt Account in Writing under his the Surveyor's Hand, or under the Hands of his Executors or Adminiſtrators, of all and every Sum and Sums of Money had and received, paid, laid out and expended by him or them in the Execution of the ſaid Office, together with proper Vouchers for all Monies which ſhall have been ſo received and paid up to the Time of rendering ſuch Account, and ſhall verify ſuch Account upon Oath before a Juſtice of the Peace acting for the ſaid Parts of *Holland* in the ſaid County of *Lincoln*, if thereunto required by a Majority in value to be aſcertained as aforeſaid of the ſaid Proprietors, who ſhall audite ſuch Account, and ſuch Surveyor ſhall pay to the ſucceeding Surveyor, or unto ſuch Perſon or Perſons as the Majority in value to be aſcertained as aforeſaid of the Proprietors at ſuch Meeting as aforeſaid, by Writing under their Hands, ſhall authorize to receive the ſame, all ſuch Money as ſhall upon balancing the ſaid Account be adjudged by the ſaid Proprietors or the major Part of them in Value, to be aſcertained as aforeſaid, then preſent to be due from ſuch Surveyor, and deliver up the Vouchers and all Books and Writings reſpecting the ſaid Office to the ſaid Proprietors, or to ſuch other Perſon or Perſons as ſhall be by them or the major Part of them in Value, to be aſcertained as aforeſaid, authorized to receive and take the ſame; and in caſe any Surveyor, or the Executors or Adminiſtrators of any Surveyor, ſhall refuſe or neglect to render, give in and make ſuch Account and Payment as aforeſaid (verified in the Manner hereinbefore mentioned) or ſhall refuſe or neglect to deliver up all ſuch Books, Writings and Vouchers as aforeſaid, then and in either of the ſaid Caſes it ſhall and may be lawful to and for any Juſtice of the Peace for the ſaid Parts of *Holland* to make Enquiry of ſuch Default in a ſummary Way, and if any ſuch Surveyor or the Executors or Adminiſtrators of any ſuch Surveyor ſhall thereof be convicted, either by the Confeſſion of the Party or upon the Teſtimony of any Witneſs upon Oath (which Oath the ſaid Juſtice is hereby empowered

powered to adminiſter, and alſo to adminiſter Oaths to the Witneſſes on the Part of the Perſons who may be ſo ſummoned), he the ſaid Juſtice ſhall and is hereby required to commit the Party or Parties ſo offending to the Common Gaol of the ſaid County of *Lincoln*, or to the Houſe of Correction within the ſaid Parts of *Holland*, there to remain until he or they ſhall have made and rendered a perfect Account and Payment as aforeſaid, and delivered up all the Books and Writings relating to the ſaid Surveyorſhip in his or their Cuſtody in Manner aforeſaid, unleſs the Surveyor or his Executors or Adminiſtrators who ſhall be ſummoned ſhall ſhew good Cauſe to the contrary, either by ſhewing the Balance adjudged due to be more than is really due, or in the caſe of Executors or Adminiſtrators, by ſhewing that their Teſtator or Inteſtate died inſolvent, or did not leave ſufficient Aſſets, or that his Aſſets have been duly and regularly adminiſtered; and that the Determination of ſuch Juſtice ſhall be final and concluſive between all the ſaid Parties; and that no *Certiorari* or other Writ ſhall be allowed to remove the ſame into any of His Majeſty's Courts at *Weſtminſter* or otherwiſe.

Surveyor to give Security.

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

Penalty for damaging any Works or obſtructing the Execution of this Act.

LVIII. And, for preventing the breaking down or deſtroying any of the Works which ſhall be made or altered by or under the Direction of the Surveyor, to be appointed in purſuance of this Act; be it further enacted, That if any Perſon or Perſons ſhall at any Time or Times hereafter wilfully or deſignedly demoliſh, pulldown, break, ſpoil or otherwiſe deſtroy any Bank, Outlet, Sluice, Gowt, Clough, Bridge, Tunnel, or other Works already made or erected or which ſhall at any Time or Times hereafter be made or erected by or under the Direction of any Surveyor to be appointed in purſuance of this Act, all and every Perſon or Perſons ſo offending, and being thereof lawfully convicted, ſhall be ſubject and liable to the like Pains and Penalties as in Caſes of Felony, and the Court by and before whom ſuch Perſon and Perſons ſhall be tried and convicted ſhall have Power and Authority to cauſe ſuch Perſon or Perſons to be puniſhed in ſuch Manner as Felons are directed to be puniſhed by the Laws and Statutes of this Realm, or the Court may and are hereby empowered, if they ſhall think fit, in mitigation of ſuch Puniſhment to award and impoſe ſuch Fine or Impriſonment as ſuch Court ſhall judge expedient; and if any Perſon ſhall obſtruct, hinder or moleſt any Surveyor to be appointed by virtue of this Act, or any Workman or other Perſon or Perſons who ſhall be employed by or under him, in the Execution of this Act, every ſuch Perſon ſo offending and being thereof lawfully convicted ſhall for every ſuch Offence forfeit and pay any Sum not exceeding Forty Shillings.

Perſons aggrieved may appeal to the Quarter Seſſions.

LIX. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf or themſelves aggrieved by any Thing done in purſuance of this Act or the ſaid Act ſecondly herein recited (other than and except ſuch Orders and Determinations of the ſaid Commiſſioners as are by this preſent Act or the ſaid Act ſecondly herein recited directed to be final, binding or concluſive, and except in ſuch Caſes where an Iſſue at Law ſhall be tried

tried as hereinbefore mentioned), then and in every such Case he, she or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said Parts of *Holland* in the said County of *Lincoln*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners or any of them and to the Party or Parties concerned Fourteen Days' Notice in Writing of such Appeal and of the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and to award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels after deducting the reasonable Charges of such Warrant, Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari* or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Recovery of Penalties.

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

Publick Act.

LXI. 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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