ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

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Cap. xxii.

An Act for authorizing the Purchase by the Corporation of *Lincoln* of certain Common Rights, and the Diversion of a Road in *Canwick Common,* and the Sale of Portions of the said Common; and for other Purposes. [29th *May* 1868.]

WHEREAS the Mayor, Aldermen, and Citizens of the City of *Lincoln*, herein-after referred to as "the Corporation," are Lords of the Manor of the City of *Lincoln*, and as such claim to be seised of or otherwise entitled to the Inheritance in Fee Simple of and in the Soil and Freehold of an Extra-parochial Place called *Canwick Common* or the *South Common* situate in the City of *Lincoln* and County of the same City, herein-after referred to as "the Common:" And whereas the Freemen of the said City who are for the Time being resident and inhabiting within the said City, and also the Householders of the said City who are for the Time being resident and inhabiting within the said City on the South Side of the *High Bridge* and the River *Witham* there, and also *John Thomas Tweed* of the said City, Esquire, in respect of Rights of Common which were formerly appendant or appurtenant to an Estate called *Saint Catherine's*, and also the Vicars of the

respective Parishes and Parish Churches of *Normanby* and *Canwick* in the County of *Lincoln*, and the *Great Northern* Railway Company, as Owners respectively of certain Closes known as the *Mallandry Closes*, claim to have respectively Rights of Common in and over the Common according to certain Rates or Stints respectively: And whereas any Rights of Common of the said Freemen and Householders are not alienable, and can only be exercised by themselves personally: And whereas it is expedient that the Corporation should be empowered to purchase the said Rights of Common claimed by the said *John Thomas Tweed*, and to hold the same without Merger thereof in the Fee Simple of the Corporation, and to demise or let the same as by this Act is provided: And whereas by virtue of the Act of the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Ten, intituled *An Act to amend the Laws concerning the Burial of the Dead in the Metropolis*, and of the Act of the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, Chapter One hundred and thirty-four, intituled *An Act to amend the Laws concerning the Burial of the Dead in* England *beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis*, and of "The Lands Clauses Consolidation Act, 1845," Two Parcels of Land, Part of the Common, have been conveyed in Fee Simple to the Burial Board for the Parishes of *Saint Botolph*, *Saint Peter at Gowts*, *Saint Mark*, *Saint Mary le Wigford*, *Saint Benedict*, *Saint Peter at Arches*, *Saint Martin*, *Saint Michael in the Mount*, and *Saint Paul*, in the City of *Lincoln* and County of the same City, in consideration of the Sum of One thousand two hundred and seventy-five Pounds, which Sum has been paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Chancery *ex parte* the said Burial Board, and invested pursuant to an Order of the said Court in the Purchase of One thousand three hundred and twenty-eight Pounds Two Shillings and Sixpence Bank Three *per Centum* Consolidated Annuities, which are now standing in the Books of the Governor and Company of the Bank of *England* in the Name of the said Accountant General in trust in the said Matter subject to the further Order of the said Court, and pursuant to the same Order the Dividends accruing on the said Bank Annuities up to the Fifth Day of *July* One thousand eight hundred and sixty-seven, and amounting in the whole to the Sum of Three hundred and sixty-seven Pounds Fourteen Shillings and Tenpence Cash, have been received by the Treasurer of the Corporation: And whereas the said Bank Annuities and Dividends are apportionable between the Corporation and the Commoners relatively to the respective Values of their Interests in the Land so conveyed to the said Burial Board: And whereas by virtue of "The *Great Northern* Railway Act (*Lincoln* to *Bourn*), 1864," and

15 & 16 Vict. c. 10.

16 & 17 Vict. c. 134.

8 & 9 Vict. c. 18.

27 & 28 Vict. c. ccxlii.

and for the Purposes of a Railway by that Act authorized, the *Great Northern* Railway Company have entered upon, taken, and used other Parcels of the Common, and the Compensation to be paid for the Interest of the Corporation in such Parcels has been settled pursuant to "The Lands Clauses Consolidation Act, 1845," and amounts, with the Interest thereon to the Thirty-first Day of *October* One thousand eight hundred and sixty-seven, to Five hundred and sixty-nine Pounds Fifteen Shillings and Ninepence, which Sum has been paid by the said Company to the Corporation; and the Compensation to be paid for the Interest of the Commoners in the same Parcels has been settled pursuant to the same Act, and paid to Messieurs *Richard Hall*, *Charles Ward*, *Richard Sutton Harvey*, *Henry Kirk Hebb*, and *John Richard Battle*, a Committee of the said Commoners elected to treat with the said Company as to the Amount of the last-mentioned Compensation, and amounts, with Interest thereon to the said Thirty-first Day of *October* One thousand eight hundred and sixty-seven, to Seven thousand nine hundred and seventy-seven Pounds and Eightpence, which Sum has been duly paid by the said Company to the said Committee: And whereas the Parcels of Land firstly, secondly, and thirdly described in the Schedule hereto are Parts of the Common, and have been permanently severed from the Remainder of the Common by the Construction of the *Great Northern* Railway, and it is expedient and would be for the Benefit of the Commoners that those Parcels should be sold, and that the Monies to arise by the Sale thereof should be applied as by this Act is provided: And whereas by an Act of the Fourth and Fifth Years of the Reign of Her present Majesty, Chapter One hundred and eight (Local and Personal), intituled *An Act for more effectually repairing, maintaining, and improving certain Roads leading to and from the City of* Lincoln, a Road therein described as "the "Road leading from the said City of *Lincoln* towards *Branston* "in the County of *Lincoln*, and extending from within One hun- "dred Yards of the Bridge over *Bar Gate Drain* aforesaid to a "Place where a Windmill formerly stood at the Top of *Canwick* "*Hill*," was (among other Roads) made Turnpike, and subject to the Powers and Provisions of that Act; and another Act of the Fifth Year of the Reign of Her said Majesty, Chapter Seventy-one (Local and Personal), was passed to explain and amend the last-recited Act: And whereas the said Road intersects the Common in an irregular Course, and severs a further Portion of the Common from the Remainder thereof, and it is expedient that a Part of the said Road should be diverted, and a new Road be made as in this Act is provided, and that that Part of the original Road for which the Diversion is substituted should be stopped up and restored to the Common, and that the Land fourthly described in the Schedule hereto,

4 & 5 Vict. c. cviii.

hereto, being Parcel of the said Common which will remain severed as last aforesaid, after making the said Diversion, should be sold, and the Money to arise from such Sale be applied as by this Act is provided: And whereas Duplicate Plans and Sections showing the Course of the intended Diversion of the said Road, and describing the Land intended to be taken for the same, and the Line or Situation and Levels of the whole Work, and the Lands in or through which it is to be made, and a Book of Reference thereto describing all such Lands, and containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers thereof, have been deposited with the Clerk of the Peace for the City of *Lincoln* and County of the same City, and with the Clerk of the Peace for the Parts of *Lindsey* in the County of *Lincoln*, and the said Plans, Sections, and Book of Reference are herein-after referred to as the deposited Plans, Sections, and Book of Reference: And whereas the Common is ill-drained, and it would be of great Benefit to the Commoners and is therefore expedient that Provision should be made in manner in this Act appearing for the improved Drainage thereof, and the cleansing and improving of the Cattle Ponds therein: And whereas it is expedient that the Application and Distribution of the Purchase and Compensation Monies and Interest aforesaid, and of the Monies to arise from the Sale of the Lands mentioned in the Schedule hereto, should be regulated as by this Act is provided: And whereas the Objects aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same:

Short Title.

1. This Act may be cited as "*Lincoln* Corporation (*Canwick Common*) Act, 1868."

8 & 9 Vict. cc. 18. & 20. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," (except Sections Ten, Eleven, and Fifteen thereof, and except the Clauses and Provisions of that Act with respect to Lands being Common or Waste Lands, and except where otherwise expressly varied by this Act,) and also (but so far only as relates to the Diversion of Road and making of a new Road by this Act authorized) Sections Ten, Eleven, Twelve, and Fifteen of "The Railways Clauses Consolidation Act, 1845," are incorporated with this Act; and for the Purposes of this Act the Term "the Railway" in that Act shall mean the said Diversion and new Road, and the Term "the Company" in that Act shall mean the Corporation.

Interpretation of Terms.

3. In this Act the several Words and Expressions to which Meanings are assigned by the Acts wholly or partially incorporated herewith

herewith have the same respective Meanings, unless there be something in the Subject or Context repugnant to such Construction; the Expression "the Corporation" means the Mayor, Aldermen, and Citizens of the City of *Lincoln;* the Expression "the Common" means the *Canwick Common* or *South Common* aforesaid; the Expression "the said original Road" means the Road in the Preamble of this Act particularly described; the Expression "the said Diversion" means the Diversion and new Road by this Act authorized; and the Expression "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute.

Power to Corporation to purchase Rights of John Thomas Tweed.

4. The Corporation may purchase by Agreement for the Use of the Corporation all Rights of Common and other Rights in and over the Common which formerly were or are reputed to have been appendant or appurtenant to, or to have been used and enjoyed with or in respect of, an Estate called *Saint Catherine's*, and are now claimed to be vested in the said *John Thomas Tweed*, and may hold the same Rights when so purchased unto the Corporation and their Successors, without such Rights becoming and the same shall not thereby become merged or extinguished in the larger Estate of the Corporation as Lords of the Manor in the Common; and the Corporation may, after the said Rights shall have become vested in them, let, demise, or lease the same Rights from Time to Time.

Power to divert Turnpike Road.

5. Subject to the Provisions of this Act, the Corporation may make in the Line and according to the Levels shown on the deposited Plan and Section the Diversion of Road and new Road herein-after described, with all proper Approaches, Works, and Conveniences connected therewith, and may enter upon, take, and use such of the Lands delineated on the said Plan and described in the deposited Book of Reference as may be required for that Purpose; the said Diversion will be wholly within the Common, and will commence by a Junction with the new Road leading from *Lincoln* to *Branston* at a Point in that Road distant Ninety-seven Yards or thereabouts measured in a North-westwardly Direction from the present Junction of the said original Road with the same new Road, and will terminate by a Junction with the said original Road at a Point in that Road distant Two hundred and seventy-five Yards or thereabouts measured along the said Road in a South-westwardly Direction from its said Junction with the same new Road.

Recited Turnpike Acts made applicable to diverted Road.

6. From and after the Completion of the said Diversion to the Satisfaction of the Trustees for the Time being for putting into execution the Act of the Fourth and Fifth Years of the Reign of Her Majesty, and the Act of the Fifth Year of the Reign of Her Majesty, in the Preamble of this Act respectively referred to, those Acts respectively shall be read and have Effect as if, and Tolls may be taken and demanded by the said Trustees in respect of the said Diversion in like Manner as if, it had been a Part of the said original Road, or the Site thereof had been purchased by the said Trustees for the Purpose of such Diversion.

Extinguishment of Common Rights in the Diversion.

7. From and after the entering upon and taking by the Corporation of the Lands by this Act authorized to be entered upon, taken, and used by them for the Purpose of the said Diversion, all existing Rights of Common and other Rights and Privileges in or in respect of the Lands so used for the said Diversion are by this Act extinguished.

Stopping up old Road and vesting it in Corporation.

8. From and after the Completion as aforesaid of the said Diversion all that Part of the said original Road which lies or will lie between the said described Termination of the said Diversion and the said new Road leading from *Lincoln* to *Branston* may be permanently stopped up by the Corporation, and is by this Act vested in the Corporation and their Successors as Lords of the Manor aforesaid in Fee Simple, subject to all such Rights of Common and other Rights as the Remainder of the Common is subject to, and all Rights of the said Trustees in, to, or over the same, and all Tolls heretofore demandable by them in respect thereof, are by this Act extinguished.

Period for the compulsory Purchase of Lands.

9. The Powers of the Corporation for the compulsory Purchase of Lands for the Purpose of this Act shall not be exercised after the Expiration of Two Years from the passing of this Act.

Period for Completion of Works.

10. The said Diversion shall be completed within Three Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Corporation for executing the same, or otherwise in relation thereto, shall cease to be exercised except as to so much thereof as shall then be completed.

Corporation may sell scheduled Lands.

11. The Corporation may from Time to Time sell all or any of the several Parcels of the Common which are comprised and described in the Schedule to this Act.

As to the Manner of Sale.

12. Every Sale by this Act authorized may be made either by Public Auction or Private Contract, or partly in each of those Ways, and

and the Corporation may make any Stipulations as to Title or Evidence or Commencement of Title or otherwise in any Conditions of or Contract for Sale, and may buy in at any Sale all or any of the Land offered for Sale, and may rescind any Contract for Sale, and may resell the Property bought in or included in the rescinded Contract.

Conveyance to discharge the Lands from Rights of Common.

13. All Land sold by the Corporation under any of the Powers aforesaid, and as to which the Contract for Sale is not rescinded, may, upon Payment of the Purchase Money to the Treasurer of the Corporation, be conveyed by the Corporation under their Common Seal unto and to the Use of the Purchaser, his Heirs or Assigns, or otherwise, as he or they shall direct, and shall, by force and virtue of the Conveyance, be held by him or them freed and discharged from all Rights of Common and other Rights and Privileges in, over, and upon the same.

Corporation Treasurer's Receipt a Discharge.

14. The Receipt of the Treasurer of the Corporation for any Money becoming payable on any such Sale as aforesaid shall effectually discharge the Person paying the same therefrom, and from being bound to see to the Application or being answerable for the Loss, Misapplication, or Nonapplication thereof, and from inquiring whether the Sale is authorized, and from being affected with Notice that it is not authorized.

For Payment of Expenses of Sales.

15. Out of the Monies to arise by any and every Sale of the Lands by this Act authorized to be sold, when and as such Monies shall be received by the Treasurer of the Corporation, all the Costs, Charges, and Expenses of and incidental to the respective Sale, and the Completion on the Part of the Corporation of the respective Contract for Sale, shall be paid and satisfied.

For Payment of unpaid Expenses of ascertaining Compensation for Lands taken by the Burial Board and Great Northern Railway Company.

16. Out of the said Sum of Bank Annuities, and the Three hundred and sixty-seven Pounds Fourteen Shillings and Tenpence already received for Dividends thereon, and any other Dividends accrued or to accrue thereon, and (subject to the Provision of this Act for Payment of the Expenses of obtaining this Act) out of the said Sums of Five hundred and sixty-nine Pounds Fifteen Shillings and Ninepence and Seven thousand nine hundred and seventy-seven Pounds and Eightpence respectively paid as aforesaid to the Corporation and the said Committee of the Commoners by the *Great Northern* Railway Company, all Costs, Charges, and Expenses of the Corporation and the said Committee respectively which shall have been incurred by them respectively in or about or in anywise incidentally to the taking, Sale, and Conveyance of, and the determining

determining and settling the Purchase and Compensation Monies to be paid for, the respective Lands conveyed to the said Burial Board and Company respectively as aforesaid, and which shall not have been discharged by the said Burial Board and Company respectively, shall be paid and satisfied; and a further competent Part of all or any of the same Funds, and of all Accumulations and Interest thereof respectively, and of any Share which shall be apportioned as in this Act is provided to the said Commoners of the Purchase Monies for any Portions of the Common which the Corporation are by this Act empowered to sell, shall be applied to the Payment of the Cost of the said Diversion, and of the Cost (to the Extent of any Sum not exceeding One thousand Pounds) as well incurred as to be incurred of the better draining and improving of the Common, and the cleaning and (if necessary) deepening the Cattle Ponds there, and the Corporation are empowered to cause such draining, improving, cleaning, and deepening to be done.

For Payment of Cost of Road, Diversion, and Drainage.

For Apportionment of Funds between the Corporation and Commoners.

17. The Residue of the said Bank Annuities and of the said Three hundred and sixty-seven Pounds Fourteen Shillings and Tenpence, and such other Dividends on the said Bank Annuities as aforesaid, and also the Residue of the Monies to arise by the Sale of the Lands by this Act authorized to be sold, after paying and satisfying the said Costs, Charges, and Expenses of and incidental to the Sale, shall be apportioned by the High Court of Chancery between the Corporation and the Commoners in proportion to the respective Values of their Estates and Interests in the Lands from which the said respective Residues have respectively arisen.

For Payment of Purchase Money to Mr. Tweed.

18. The apportioned Shares of the Corporation in the last-mentioned Funds, and (subject to the said Provision for Payment of the Expenses of this Act) the Residue of the said Sum of Five hundred and sixty-nine Pounds Fifteen Shillings and Ninepence, and any further Accumulations of Interest thereon, and also any other Corporate Funds necessary for the Purpose, may be applied by the Corporation to the Payment of the Purchase Money for the said Common Rights claimed by the said *John Thomas Tweed*.

Disposition of Residue of Corporation Funds.

19. The net Residue (if any) which shall remain of the several Funds and Monies belonging or apportioned to the Corporation as aforesaid, after answering all the Purposes to which the same Funds and Monies are by this Act made applicable in priority to the Disposition by the now stating Provision directed, shall, if such Residue shall amount to or exceed the Sum of Two hundred Pounds, be so disposed of as Monies payable for Lands purchased from Corporations under "The Lands Clauses Consolidation Act, 1845," are

are by that Act directed to be disposed of, and shall, if less than Two hundred Pounds, be paid to the Treasurer of the Corporation for the general Purposes of the Corporation.

Disposition of Residue of Commoners Funds.

20. The net Residue which shall remain of the several Funds and Monies belonging or apportioned to the Commoners as aforesaid (after answering all the Purposes to which the same Funds and Monies are by this Act made applicable in priority to the Disposition by the now stating Provision directed, and including as to the said Seven thousand nine hundred and seventy-seven Pounds and Eightpence the said Provision for Payment of the Expenses of this Act), and also all Interest, Dividends, and Accumulations of such net Residue, shall be applied for the Benefit of the several Classes of Commoners in such Manner, having regard to their respective Rights of Common and the Nature of their respective Interests therein, as the said Court of Chancery shall from Time to Time, by any Order to be made upon such Application as in this Act is provided, order and direct.

Corporation may disclaim Participation in last-mentioned Residue.

21. The Corporation may disclaim and release all Right to participate in the last-mentioned net Residue in respect of the Common Rights to be purchased by them.

Power to Chancery to apportion Costs.

22. The said Court may from Time to Time, by any Order to be made as aforesaid, order and determine in what Proportions all or any Costs, Charges, and Expenses by this Act provided to be paid, including the said Cost of draining, shall be apportioned between and be borne and paid by the respective Funds of the Corporation and the Commoners by this Act made applicable thereto respectively.

Mode of applying to Chancery.

Notice thereof.

23. Every Application to the Court of Chancery for all or any of the Purposes of this Act may be made in a summary Way in the Matter of this Act *ex parte* the Mayor, Aldermen, and Citizens of the City of *Lincoln:* Provided always, that Seven Days Notice of every such Application shall be given by affixing the same on the outer Door of the Town Hall of the said City.

Expenses of Act.

24. The Expenses of obtaining this Act shall be paid out of the said Sums of Five hundred and sixty-nine Pounds Fifteen Shillings and Tenpence and Seven thousand nine hundred and seventy-seven Pounds and Eightpence rateably and proportionately.

SCHEDULE.

First, all that Parcel of the Common containing Two Roods and Twenty Perches or thereabouts lying West of the Great Northern Railway, and bounded on the North by the Parish of Saint Botolph, and on the South by the said original Road, and extending from the Railway Bank to or near the Sincil Dyke Bank.

Secondly, all that Parcel of the Common containing Three Roods and Twenty-two Perches or thereabouts constituting a Part of the Swine Green, and lying on the East Side of and adjoining to the Great Northern Railway where that Railway intersects the Swine Green.

Thirdly, all that Parcel of the Common containing Three Acres and Fifteen Perches or thereabouts also constituting a Part of the Swine Green, and lying on the West Side of and adjoining to the Great Northern Railway where that Railway intersects the Swine Green.

Fourthly, all that Parcel of the Common containing Three Acres and Ten Perches which will be left lying on the West Side of the said original Road after the said Division, and will be bounded on the East partly by the said original Road and partly by the said Diversion, on the North by the said new Road from Lincoln to Branston, on the West by the Great Northern Railway and the Boundary of the Parish of Saint Botolph, and on the South by the embanked Approach of the Bridge carrying the said original Road over the said Railway.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1868.