ANNO SEPTIMO & OCTAVO

GEORGII IV. REGIS.

Cap. xlix.

An Act for dividing, inclosing, and exonerating from Tithes the Open and Common Fields, Meadows, Pastures, Fens, Ings, and Waste Lands in the Parish of *Washingborough* in the County of *Lincoln*, and Township of *Heighington* in the same Parish; and also for embanking, draining, and improving certain Lands within the same Parish and Township. [28th *May* 1827.]

WHEREAS there are within the Parish of *Washingborough* in the County of *Lincoln*, and Township of *Heighington* in the same Parish, divers Open and Common Fields, Meadows, Pastures, Fens, Ings, and Waste Lands, called or known by the several Names of the *Open Warlots*, *Open Ings*, *Open Bads*, *Open Silkholmes*, and *Cow Pastures*, or by any other Names, and containing together by Estimation Three hundred and thirty Acres, or thereabouts: And whereas there are within the said Parish and Township certain Fens, Ings, Meadows, Commons, and inclosed low Lands, containing in the whole upwards of Two thousand Acres, which are bounded by the River *Witham* on the North, by a certain Delph called *Branston Delph* on the East, by the Parish of *Canwick* on the West, and by the high Lands of the said Parish of *Washingborough* and the said Township of *Heighington* on the South, which said Lands

are subject to be overflowed and otherwise annoyed in the Winter for want of proper Banks, Drains, and Outfalls: And whereas Sir *William Amcotts Ingilby* Baronet is Lord of the Manor of *Washingborough* aforesaid, and is also seised of the Patronage and Advowson of the Rectory of the Parish and Parish Church of *Washingborough* aforesaid; and the Reverend *Humphrey Waldo Sibthorp* Clerk is the Rector of the said Parish and Parish Church, and as such is entitled to certain Glebe Lands, and to the Great and Small Tithes growing, renewing, or arising within the said Parish, or to some Modus, Compensation, or other Payment in lieu thereof: And whereas the said Sir *William Amcotts Ingilby*, *Humphrey Waldo Sibthorp*, *Thomas Lodington Fairfax* Esquire, *Henry William Hutton* Esquire, *Richard William Johnston* Esquire, *John Bromhead* Esquire, and divers other Persons, are Owners and Proprietors of the said Open and Commonable Lands within the said Parish and Township aforesaid: And whereas an Act was passed in the Forty-first Year of the Reign of
41 G. 3. c. 109. His late Majesty King *George* the Third, 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 an Act was passed in the Second Year of the Reign of His present Majesty,
1 & 2 G. 4. c. 23. intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands, in* England: And whereas the Lands and Grounds of the several Proprietors in the said Open Ings, Open Silkholmes, Cow Commons, and Commonable Lands, as also in the ancient inclosed Fen Lands in *Washingborough* and *Heighington* aforesaid, lie inconveniently dispersed, and intermixed with each other, and are in general so disadvantageously circumstanced as to render the Cultivation and Management thereof very difficult and expensive; and it would be of considerable Advantage to all the Parties concerned, and be of public Utility, if the said Open and Commonable Lands were inclosed, and divided into specific Allotments, and Exchanges made of the said ancient inclosed Lands; and if the said Fens, Meadows, Commons, and inclosed low Lands were embanked and drained, and a Compensation or Equivalent made and given to the Rector of the said Parish of *Washingborough* and his Successors in lieu of the Tithes arising within the same Parish and Township; but the several beneficial 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 Authority of the same,
Commissioners. That *John Stephenson* of *Craiselound* in the County of *Lincoln*, *Thomas Smith Woolley* of *South Collingham* in the County of *Nottingham*, and *Edward Betham* of the City of *Lincoln*, Gentlemen, and their Successors, to be appointed in manner herein-after mentioned, shall be and they are hereby appointed the Commissioners for setting out, dividing, allotting, and inclosing all the said Open and Commonable Lands in the said Parish of *Washingborough* and Township of *Heighington* aforesaid, for embanking and draining the said Fens, Meadows, Commons, and inclosed low Lands in the said Parish and Township aforesaid, and for compensating for the Tithes

arising within the same Parish and Township, and for carrying this Act and the said recited Acts into Execution (save and except such Parts of the said recited Acts as are hereby varied or altered).

Two Commissioners may act.

II. Provided always, and be it further enacted, That it shall be lawful for any Two of the said Commissioners to do and perform every Act and Thing necessary to be done in pursuance of this or the said recited Acts, and to put in force and execute all and every the Powers and Authorities herein contained or referred to, and the same shall be as valid and effectual, to all Intents and Purposes, as if done, performed, or executed by all the said Commissioners.

Appointment of new Commissioners.

III. And be it further enacted, That if the said *John Stephenson* shall, before the Execution of all the Powers and Authorities hereby vested in him, die, decline, neglect, or refuse to act, or become incapable of acting, it shall be lawful for the said Sir *William Amcotts Ingilby*, or his known Agent or Attorney, lawfully constituted by Writing under his Hand, within Two Calendar Months next after such Death, Refusal, or Disability, to appoint some fit and proper Person (not interested in the said Inclosure and Drainage) to be a Commissioner in the Room and Stead of the said *John Stephenson*, and so from Time to Time as often as the Commissioner so appointed by the said Sir *William Amcotts Ingilby* shall die, decline, neglect, or refuse to act, or become incapable of acting; and that in case the said *Thomas Smith Woolley* shall die, decline, neglect, or refuse to act, or become incapable of acting, it shall be lawful for the said *Humphrey Waldo Sibthorp*, or the Rector of the Parish and Township aforesaid for the Time being, by Authority under his Hand, within Two Calendar Months next after such Death, Refusal, or Disability, to appoint some fit and proper Person (not interested in the said Inclosure and Drainage) to be a Commissioner in the Room and Stead of the said *Thomas Smith Woolley*, and so from Time to Time as often as the Commissioner appointed by the said *Humphrey Waldo Sibthorp*, or the Rector for the Time being, shall die, decline, neglect, or refuse to act, or become incapable of acting; and that in case the said *Edward Betham* shall die, decline, neglect, or refuse to act, or become incapable of acting, it shall be lawful for the major Part in 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, allotted, inclosed, and embanked, or their known Agents or Attornies lawfully constituted, (except the said Sir *William Amcotts Ingilby* and *Humphrey Waldo Sibthorp*, or the Rector for the Time being,) who shall be present at a public Meeting which shall be appointed to be held for that Purpose by the surviving or remaining Commissioners at the Parish of *Washingborough* aforesaid, in pursuance of Notice to be given in Writing, to be affixed on the Outside of the principal Door of the Parish Church of *Washingborough* aforesaid at least Seven Days before such Meeting, by Writing under their Hands to elect some fit and proper Person (not interested in the said Inclosure and Drainage) to be a Commissioner in the Room and Stead of the said *Edward Betham*, and so from Time to Time as often as any Commissioner so to be appointed by the said

Proprietors

Proprietors shall die, decline, neglect, 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 next after the Death of any Commissioner, or his declining, neglecting, or refusing to act, or becoming incapable of acting, and such Notice thereof as aforesaid, 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 Inclosure and Drainage) in the Place and Stead 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 in all respects as the Commissioner in whose Place he shall be appointed was vested with by virtue of this Act; and that in the meantime, and until such new Commissioner or Commissioners shall be appointed in manner aforesaid, the surviving or remaining Commissioners or Commissioner shall and may proceed in the Execution of any of the Powers vested in them by this Act, such Acts of the said Commissioners as are hereby or by the said recited Acts made final and conclusive (only excepted.)

Appointment of Surveyor.

IV. And be it further enacted, That *James Sandby Padley* of the City of *Lincoln*, Land Surveyor, shall be and is hereby appointed Surveyor for the Purposes of this Act and the said recited Acts; and in case of his Death, Incapacity, Declining, Neglect, or Refusal to act, then and in any of the said Cases the said Commissioners shall and may appoint some other fit and proper Person (not interested in the said Division, Allotment, and Inclosure) to be the Surveyor for the Purposes aforesaid; and in case of the Death, declining, neglecting, or refusing to act of the Person so to be appointed as last aforesaid, then the said Commissioners shall and they are hereby authorized and empowered to appoint some other fit and proper Person, (not interested as aforesaid) as they shall think proper, to be the Surveyor for the Purposes aforesaid, as often as Occasion shall require, such Appointment to be reduced into Writing and signed by the Commissioners making the same.

Commissioners Allowance.

V. And be it further enacted, That out of the Money that shall be raised for defraying the Expences of obtaining and executing this Act there shall be paid to each of the Commissioners, as a Recompence for his Pains and Trouble, the Sum of Three Pounds and Three Shillings, and no more, for each and every Day he shall be employed in travelling to, returning from, and attending in the Execution of this Act; and at all Meetings to be held in pursuance of this Act the said Commissioners shall defray their own Expences, and also their travelling Expences; and that there shall be paid to the Surveyor or Surveyors appointed or to be appointed for the Purposes of this Act, so much for every Acre of the Land and Ground to be surveyed and admeasured in pursuance thereof, as the Commissioners

sioners shall adjudge to be a sufficient Recompence and Satisfaction for all his or their Expences and Charges whatsoever in attending the said Commissioners, surveying and admeasuring the Lands and Grounds, taking Levels of the said low Lands intended to be embanked and drained, and in making such Maps and Plans as the said Commissioners or any of them shall order or direct.

Commissioners to give Notice of Meetings.

VI. And be it further enacted, That the said Commissioners shall and they are hereby required to give or cause Notice to be given in Writing, to be fixed upon the Outside of the principal Door of the Parish Church of *Washingborough* aforesaid, of the Time and Place of their First and every other Meeting for the Execution of this Act, (Meetings by Adjournment only excepted,) at least Seven Days before any such Meeting; and the said Commissioners shall and may respectively adjourn such Meetings from Time to Time as they or he shall see Occasion, for the Execution of this and the said recited Acts; and in case Two Commissioners shall not meet at the Time and Place appointed for any Meeting, or to which any Meeting shall be adjourned, it shall be lawful for any One of the said Commissioners present at such Time and Place, to adjourn the said Meeting to be held on any future Day, not exceeding Thirty 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; provided, that all the Meetings shall be holden within Eight Miles of the Parish of *Washingborough* aforesaid.

Other Notices how to be given.

VII. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners shall be so made and given by Writing to be affixed upon the Outside of the principal Door of the Parish Church of *Washingborough* aforesaid, or by Advertisement in the Newspaper called *The Lincoln, Rutland, and Stamford Mercury*, or in some other Newspaper printed and circulated in the said County of *Lincoln*.

Commissioners to take an Oath.

VIII. Provided also, and be it further enacted, That no Person shall be capable of acting as a Commissioner or Surveyor in the Execution of any of the Powers and Authorities given by this Act, until he shall have taken and subscribed the Oath or Affirmation following; (that is to say,)

Oath.

'I *A. B.* do swear [*or being One of the People called Quakers*, do solemnly affirm], That I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute the several Trusts, Powers, and Authorities reposed in me as a Commissioner [*or* Surveyor] by virtue of an Act passed in the Year of the Reign of His present Majesty King *George* the Fourth, intituled [*here insert the Title of this Act*], without Favour or Affection to any Person or Persons whomsoever,

'So help me GOD.'

Oath to be enrolled.

Which Oath or Affirmation it shall be lawful for any One of the said Commissioners to administer, and they are hereby severally authorized and required to administer the same to each other and the said Surveyor;

veyor; and such Oath so to be taken and subscribed shall be enrolled at the same Time and Place as the Award to be made by the said Commissioners is herein directed to be enrolled, and a Copy of the Enrolment thereof shall be admitted as legal Evidence on all Occasions.

Proceedings of Commissioners to be entered in a Book.

IX. Provided also, and it is hereby further enacted, That all Orders, Proceedings, and Determinations of the said Commissioners, at any of their Meetings to be held in pursuance of this Act, shall be entered in a Book or Books to be provided and kept for that Purpose, and shall be signed by the said Commissioners present at such Meetings, and being so signed shall be deemed and taken for Originals; and all such Books shall and may be read in Evidence in all Cases of Appeal, Suits, Actions, or other Proceedings touching any Matter or Thing done in relation to or in pursuance of this Act.

Survey to be made.

X. And be it further enacted, That the said Commissioners, or their or his Successors or Successor, to be respectively appointed as aforesaid, shall cause a Survey and Admeasurement to be taken of all the said Lands and Grounds, both open and inclosed, within the said Parish of *Washingborough* and Township of *Heighington*, and also of such Parts of the said Fens, Meadows, Commons, and inclosed low Lands intended to be embanked and drained, belonging to each Proprietor, as shall be used in forming and making any of the Banks, Drains, or other Works of Drainage to be made or done in pursuance of this Act, and of such of the same Lands the Contents whereof respectively are not stated in the Surveys and Plans herein-after referred to; and that a Map or Plan of the said Lands to be inclosed, and also Maps or Plans of the Lands to be embanked and drained, and exonerated from Tithes, and the Number of Acres, Roods, and Perches in Statute Measure contained therein respectively, and of each Property in the same, shall be therein set forth and expressed, and shall be delivered to the said Commissioners for the Purposes in this Act expressed, and certified on the Oath or Oaths of the Person or Persons making the same, which Oath or Oaths the said Commissioners or any of them are or is hereby authorized and required to administer.

Commissioners, &c. to have Power to enter upon Land.

XI. And be it further enacted, That the said Commissioners and Surveyor, or their or his Officers and Workmen, and also the Trustees to be appointed as herein directed, and their Superintendents and Workmen, shall, from and immediately after the passing of this Act, and at all future Times, have full Power and Authority to enter upon all or any of the said Lands intended to be divided, inclosed, embanked, and drained respectively, for the Purpose of making the Survey, Levels, and Assessment, and also the Drains, Sluices, Bridges, and Works herein directed to be made, and for other the Purposes of this Act, without the Hindrance or Interruption of any Person or Persons whomsoever.

Commissioners to give Notice of and

XII. Provided always, and be it further enacted, That the said Commissioners, before they proceed to divide and allot the Lands and

and Grounds by this Act directed to be inclosed, shall cause public Notice to be given in the Parish Church of *Washingborough* aforesaid, on some *Sunday* immediately after Divine Service, or otherwise to be affixed upon the Outside of the principal Door of the said Church, of all Claims for Land, Cowgates, Common Rights, and other Interests upon the said Lands and Grounds directed by this Act to be divided and inclosed, made before them at any of their Meetings before that Time held for the Execution of this Act, distinguishing such as they propose to allow and disallow respectively, and appointing a Day and Place when and where all Parties concerned may appear before them and show Cause against such Allowance or Disallowance of any of the said Claims, and when all Persons who have not before made their Claims may bring in and support the same, so that the whole of the said Claims may be there finally settled and adjusted; and no Claims shall afterwards be admitted or allowed by the said Commissioners for any Right or Interest upon the said Lands or Grounds directed by this Act to be inclosed, which accrued to the Party by Purchase or Contract before that Time; and for the better settling and adjusting such Claims, it shall be lawful for the said Commissioners to examine Witnesses upon Oath, which Oath they are hereby empowered to administer accordingly; provided also, that nothing herein contained shall authorize or empower the said Commissioners to determine the Title to the Lands or Grounds hereby intended to be divided and inclosed, or exonerated from Tithes, or any Part thereof.

Commissioners to determine Claims.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized, at any Time or Times before the Execution of their Award, by Notice in Writing under their Hands, to be fixed on the Outside of the principal Door of the Parish Church of *Washingborough* aforesaid, to order and direct all or any Part of the Rights of Common in, over, or upon the Lands and Grounds hereby intended to be inclosed and drained, or any of them, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Writing; and that all such Right of Common as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time as expressed in such Notice cease, determine, and be extinguished, or the Exercise of the same suspended accordingly, any Law, Usage, or Custom to the contrary thereof notwithstanding.

For extinguishing or suspending Rights of Common before the Execution of Award.

XIV. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited Act, 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, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, Objection or Objections, shall be

Power to assess Costs.

be thereby disallowed or overruled; and who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons, Body Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing Parties to try their Rights by an Issue at Law.

XV. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Claims of Common or other Rights or Interests in, over, or upon the Lands or Grounds hereby intended to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Objection or Objections to such Claim or Claims, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, to cause an Action to be brought in One of His Majesty's Courts at *Westminster*, upon a feigned Issue, against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour any such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Party or Parties against whom such Determination shall have been so made, or to his, her, or their known Agent or Attorney; and thereupon the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied, shall proceed to a Trial at Law, at the then next or the following Assizes to be holden for the said County of *Lincoln* next after such Action or Actions shall have commenced, and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept of One or more Issue or Issues whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person or Persons, Body or Bodies Politic, Corporate, or Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the said Court so to do; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, 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.

Determinations of Commissioners not overruled by the Event of an Action to be final.

XVI. Provided always, and be it further enacted, That the Determination of the said Commissioners touching the Rights and Interests in, over, or upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed, which shall not be overruled by the Event of any such Trial as aforesaid, and the several Allotments to be made by the said Commissioners of the said Lands and Grounds for or in respect of such Rights and Interests, shall be final and conclusive upon all Parties.

If any of the Parties die, Proceedings not to abate.

XVII. And be it further enacted, That if any of the Parties in any Action, or other Proceedings to be brought or instituted as aforesaid, shall die pending the same, such Action or other Proceedings shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

Commissioners may stop up all old Roads, &c. and appoint and set out others.

XVIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to stop up and discontinue, or divert and turn, and to set out and appoint any public or private Roads, Ways, or Paths in the said Open and Commonable Lands and Waste Grounds within the said Parish of *Washingborough* aforesaid and Township of *Heighington*, or in or over any of the ancient Inclosures within the same Parish and Township, and to make such Order or Orders as to them shall seem proper, subject nevertheless to the Provisions and Directions of the said first-recited Act with respect to the stopping up of any old or accustomed Road or Roads: Provided always, that no such Road or Way shall be stopped up or discontinued, diverted or turned, without the Consent of the Owners of the respective ancient inclosed Lands through or over which such Road or Way doth pass, such Consent to be testified by some Writing under the Hands of such Owners respectively, nor without the Concurrence and Order of Two Justices of the Peace acting for the Parts of *Kesteven* in the County of *Lincoln*; and such Order to be made by such Justices shall be subject to an Appeal in manner directed by the said first-recited Act, and subject to the Rules, Orders, and Directions mentioned and contained in an Act passed in the Fifty-fifth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, for the Amendment and Preservation of the public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a public Highway, and to extend the Provisions of the same Act to the stopping up of unnecessary Roads.* 55 G.3. c.68.

Encroachments within 20 Years to be allottable.

XIX. And be it further enacted, That all Inclosures or Encroachments which, at any Time within Twenty Years before the passing of this Act, have been made upon the said Open and Commonable Lands and Waste Grounds hereby directed to be divided and allotted, shall be deemed Part thereof, and be divided and allotted accordingly; and in case any Dispute shall arise as to the Space of Time during which any such Inclosures or Encroachments shall have been made or subsisted, the same shall be determined by the said Commissioners, who shall proceed to settle such Disputes in the same Manner as by the said recited Act the Commissioners are directed to proceed

in the Settlement of the Claims of Persons to any of the Lands hereby directed to be divided, inclosed, and embanked.

Commissioners to sell Waste Lands, and apply the Money towards defraying the Expences of this Act.

XX. 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 said Survey shall have been made as aforesaid, and the Commissioners have ascertained the Value and Worth of the several Pieces or Parcels of Waste Lands and Premises adjoining the public Roads or Ways in the Parish and Township aforesaid, to make an Offer by private Sale of such respective Pieces or Parcels of Land to the several Persons or Person whose Lands and Grounds shall abut upon and adjoin the same Waste Lands at such Valuation as aforesaid; and in case such Proprietor or Proprietors of the Lands and Grounds adjoining the same Waste Lands shall, after the Expiration of Twenty-one Days from such Offer as aforesaid, decline or refuse to become the Purchaser or Purchasers of the same Waste Lands, that then it shall and may be lawful to and for the said Commissioners to sell and dispose of such Pieces or Parcels of Waste Lands and Premises adjoining the public Roads or Ways in the Parish and Township aforesaid, to the best Bidder or Bidders at some or One of the Meetings of the said Commissioners to be held in pursuance of this Act (of which public Notice shall be given in *The Lincoln, Rutland, and Stamford Mercury*, or some other Paper usually circulated in the County of *Lincoln*, at least Fourteen Days before such Sale shall be made), and shall apply the Money arising from such private or public Sale towards defraying the Expences of obtaining and executing this Act; and the Land so sold shall be conveyed and assured as Freehold in Fee unto the Purchaser or Purchasers thereof, and a Conveyance of the same made and executed by the said Commissioners shall be valid and effectual in the Law to all Intents and Purposes whatsoever: Provided always, that in case any Part or Parts of the said Commons, Commonable Lands, and Waste Grounds should be sold for more Money than will be required to defray such Costs, Charges, and Expences as aforesaid, then and in such Case such Surplus Money shall be divided and apportioned between and among the several Proprietors and other Persons interested of and in the said Commons, Commonable Lands, and Waste Grounds, according to their several and respective Interests therein, and paid to them, in case they shall be seised in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid in the manner herein-after mentioned.

Compensation to be made to the Rector in lieu of Land employed in the making of Drains, &c.

XXI. Provided always nevertheless, and it is hereby further enacted, That it shall and may be lawful to and for the said Commissioners to allot and award so much and such Part or Parts of the same Waste Lands as shall abut upon and lie next the Lands and Grounds of the Rector of the same Parish and Township, unto the said *Humphrey Waldo Sibthorp*, and his Successors, as Rector of *Washingborough* as aforesaid, in lieu of and as a Compensation for such Part and Parts of the Glebe Lands of the said Rector as shall be used and employed in the cutting and making of the Drains, Banks, Roads, and Ways herein-after mentioned; and in case the same Waste Lands shall not be sufficient for such Compensation as aforesaid, and also the Tithes of the Lands and Grounds of the several

Proprietors

Proprietors used and employed therein, that then the said Commissioners shall be fully authorized and empowered to allot and award unto the said Rector and his Successors such other Waste Lands as the Proprietors abutting thereon may decline or refuse to purchase as herein-before mentioned; but if it shall happen that the said Proprietors shall accept and purchase all the Waste Lands as aforesaid, that then the said Commissioners shall and will and they are hereby authorized and empowered to allot and award unto the said Rector and his Successors so much and such Quantity of Land in the said Open Meadows and Cow Commons as shall be equivalent thereto, in order that the said Rector may be fully compensated for all the Glebe Lands and Tithes that are used and employed in the making and maintaining of the said Drains, Banks, Roads, and Ways in the Parish and Township aforesaid.

Allotments for Sand, &c.

XXII. And be it further enacted, That the said Commissioners shall assign, set out, and allot unto the Surveyors of Highways within the said Parish and Township respectively, such Parts of the Lands and Grounds hereby directed to be divided and allotted as the said Commissioners shall think necessary, not exceeding Two Acres in the whole for the said Parish and Township respectively, as and for public Sand, Gravel, Clay, and Stone Pits; and the same Allotments when so set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands, Tenements, and Hereditaments within the Parish and Township aforesaid, and their Tenants for the Time being, to such Extent, in such Manner, and under such Rules and Regulations, as the said Commissioners shall in and by their Award direct and appoint, and not otherwise.

The Glebe and Common Right.

XXIII. And be it further enacted, That the said Commissioners shall and they are hereby required in the next place to set out, allot, and award unto the said *Humphrey Waldo Sibthorp* and his Successors, Rectors as aforesaid for the Time being, such Part and Proportion of the Lands and Grounds hereby directed to be divided, inclosed, and embanked, as (Quantity, Quality, and Situation considered) shall in the Judgment of the said Commissioners be a full Equivalent and Compensation for the present uninclosed Glebe Lands in the said Open Meadows and Cow Commons, and for Rights of Common belonging to the said Rectory in, over, and upon the same Lands and Grounds and Commons by this Act directed to be divided, inclosed, and embanked.

Allotments to Rector in lieu of Great Tithes of the said Open Lands.

XXIV. 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 said *Humphrey Waldo Sibthorp*, as Rector of the said Parish of *Washingborough*, and his Successors for the Time being, such Plot or Plots of the Lands or Grounds hereby directed to be divided, inclosed, and embanked, as shall (Quantity, Quality, and Situation considered) in the Judgment of the said Commissioners be equal in Value to One Fifth Part of all the Arable and Tillage Land, or Lands usually deemed Arable or Tillage, although the same may have been used as Meadow or Pasture, and Two Thirteenth Parts of all the other Lands, Commons, and Grounds within the said

Parish

Parish of *Washingborough* and Township of *Heighington* aforesaid, as are hereby directed to be divided, inclosed, and embanked, which shall remain after the public Drains, public Roads, and the Allotments to be made to the said *Humphrey Waldo Sibthorp* and his Successors in lieu of Glebe Lands and Rights of Common respectively, shall have been taken out and deducted.

Allotment to be made to Rector for a Rate or Tax payable to the Witham Company and Proprietors.

XXV. And whereas by an Act passed in the Fifty-second Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for rendering more effectual an Act of His present Majesty, for draining Lands lying on both Sides of the River* Witham *in the County of* Lincoln, *and restoring the Navigation of the said River; and for repealing another Act of His present Majesty in relation to the said Drainage and Navigation*, the said *Humphrey Waldo Sibthorp*, as Rector of the Parish of *Washingborough*, and his Successors for the Time being, will be required to pay to the Company and Proprietors under the said Act, or to the General Commissioners of Drainage by the River *Witham*, an average Rate or Tax of Two Shillings and Sixpence *per* Acre, from, out of, and in respect of his said Allotment or Allotments for Glebe and Tithe as aforesaid; be it therefore enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot, and award unto and for the said Rector and his Successors for the Time being, such further Lands, Grounds, and Commons hereby directed to be divided, inclosed, and embanked, as shall in their Judgment be equal in Value and a full Compensation for the said average Rate or Tax of Two Shillings and Sixpence as aforesaid.

What shall be deemed Arable Land.

XXVI. Provided always, and be it further enacted, That for the Purpose of ascertaining the Value of the Tithes as herein-before directed, all the Lands which have been pared, ploughed, or used in Tillage within Ten Years next before the passing of this Act, shall be deemed to be Arable Land.

Corn Rent to be allowed in lieu of Tithes on the ancient inclosed Lands;

XXVII. And whereas it is agreed that all the Tithes, both Great and Small, Moduses and other Payments in lieu of Tithes, arising and renewing out of, in, or upon the Messuages, Cottages, Gardens, Orchards, Woods, and ancient inclosed high Lands within the said Parish and Township as are subject to the Payment of Tithes, or to any Moduses, Compensation, or other Payment in lieu thereof, should be abolished and extinguished, and that a full and adequate Compensation and Satisfaction should be made to the said *Humphrey Waldo Sibthorp*, as Rector of the Parish of *Washingborough* aforesaid, and his Successors for the Time being, in respect of all such Tithes, Moduses, Compensations, and other Payments in lieu of Tithes, by yearly Corn Rents or Sums of Money in manner herein-after mentioned; be it therefore enacted, That in lieu, satisfaction, and compensation of the Tithes arising, renewing, or increasing from or in respect of the Messuages, Cottages, Gardens, Orchards, Woods, and ancient inclosed high Grounds in the Parish and Township aforesaid, the said *Humphrey Waldo Sibthorp* and his Successors for the Time being shall have and be entitled to a Corn Rent, or Satisfaction in Money, to be ascertained and paid in manner herein-after mentioned;

 (that

(that is to say,) the said Commissioners shall, from the *London Gazette*, and by such other Ways and Means as they shall think most proper, ascertain what hath been the average Price of good marketable Wheat in the said County of *Lincoln* during the Term of Twenty-one Years next preceding the Thirty-first Day of *December* One thousand eight hundred and twenty-six; and shall, in and by their Award or Instrument directed to be made in and by the said recited Act, ascertain and distinctly set forth what Quantity of such Wheat shall in their Judgment, without making any Deduction or Allowance on account of or for Poor Rates or any other Parochial Rates, according to such average Price as aforesaid, be equal to the full and actual yearly Value of all the Tithes, both Great and Small, issuing, arising, and payable to the said *Humphrey Waldo Sibthorp* and his Successors, out of the ancient inclosed high Lands within the said Parish and Township, and Wood or Lands appropriated to the Growth of Timber or other Wood, (not estimating or including in such Valuation of the said last-mentioned Lands the Worth or Value of the Timber or Wood growing thereon, except such Wood as is titheable according to Common Law,) and all other Lands and Grounds within the said Parish and Township (exclusive of the public Roads over the same, and the Allotments for Materials); and that there shall be issuing and payable to the said *Humphrey Waldo Sibthorp* and his Successors, as Rectors of the Parish aforesaid for the Time being, from and out of the Lands and Estates of the several Proprietors in the Parish and Township aforesaid, or such Parts thereof respectively as the said Commissioners shall judge to be an ample Security for the same, according to the Value of the Tithes payable in respect of each Estate, such Sum of Money as shall in the whole be equal to the Value of the Quantity of Wheat so to be ascertained according to the average Price aforesaid, and shall be payable and paid by the Person or Persons who for the Time being shall be in the Possession or Occupation of the Lands, Hereditaments, and Premises out of which the said several and respective Rents shall be issuing, to the said *Humphrey Waldo Sibthorp* and his Successors, as Rectors of the Parish aforesaid for the Time being, for ever, in such Payments and upon such Day or Days in every Year as the said Commissioners shall in and by their Award appoint and direct; and such Payments to be made without being subject or at all liable to any Deduction, Tax, Rate, or Assessment for the Relief of the Poor in the Parish and Township aforesaid, or any other Parochial Purpose whatsoever.

how its Value shall be ascertained.

XXVIII. And be it further enacted, That it shall and may be lawful, as well for the said *Humphrey Waldo Sibthorp* and his Successors for the Time being, as for any one or more of the Owners and Proprietors of Lands and Tenements hereby made liable to the Payment of yearly Tithe Rents to the said Rector and his Successors, at their respective proper Expence, by Writing under their Hands, to apply at the First or any subsequent Quarter Sessions of the Peace to be holden in and for the Division of *Kesteven* in the said County of *Lincoln*, after the Expiration of Twenty-one Years from the making of the said Award, having given Notice of such intended Application in the *London Gazette*, and also in some Newspaper usually circulated in the said County of *Lincoln*, and on the outer Door of the Parish

For re-ascertaining Corn Rent.

of *Washingborough* aforesaid, at least One Month next preceding, to have Two Persons named and appointed for such Parish and Township by the Justices then and there assembled, to be, together with a Third Person to be named and chosen by such Two Persons respectively, Arbitrators or Referees for inquiring into and ascertaining by the *London Gazette*, so long as the Return of the average Prices of Corn and Grain shall be published therein, and in case of no such Publication, then by such Ways and Means as they shall think equitable or proper, the average Price of an Imperial Bushel of good marketable Wheat within the said County of *Lincoln* for the Twenty-one Years then last past; which said Three Arbitrators or Referees, or the major Part of them, shall, by their Report to be made and delivered to the Court of Quarter Sessions, set forth such average Price; and in case it shall by such Report appear that such average Price of a Bushel of good marketable Wheat is more or less than the average Price thereof set forth in the said Award by the Value of Three-pence or upwards, the said respective yearly Tithe Rents shall be increased or diminished as shall be directed by Order of the said Court, and the same shall from the half-yearly Payment preceding such Order remain and continue issuing and payable to the said Rector and his Successors out of the several Allotments and ancient Inclosures charged by the said Award with such respective yearly Tithe Rents, until the same shall, at the End of Twenty-one Years then next ensuing, be again varied by such Application in such Manner as herein-before mentioned, and so from Time to Time at the End of Twenty-one Years for ever.

Power to distrain for Corn Rent.

XXIX. And be it further enacted, That if any of the Corn Rents, or yearly Sums of Money in lieu thereof, charged upon any of the Proprietors or Occupiers of the Messuages, Cottages, Gardens, Orchards, Woods, and ancient inclosed high Grounds in the Parish and Township aforesaid, or any Part or Parts thereof, shall happen to be behind or in arrear or unpaid for the Space of Thirty Days next after the Day of Payment appointed in and by the Award of the said Commissioners, then and so often, and from Time to Time as the same shall so happen, it shall and may be lawful to and for the said *Humphrey Waldo Sibthorp*, as Rector of the said Parish of *Washingborough*, and his Successors for the Time being, to enter into and upon any Part or Parts of the said Messuages, Cottages, Gardens, Orchards, Woods, and ancient inclosed high Grounds, as shall be in the Tenure and Occupation of any Person or Persons, his, her, or their Heirs, Executors, Administrators, Undertenants, or Assigns, from and by whom or out of which the said Corn Rent, or yearly Sum of Money in lieu thereof, shall be due, in arrear, and ought to be paid, and the Distress and Distresses then and there found and taken to dispose of according to the Laws now in force concerning Distresses for Rent reserved upon Leases for Years or at Will.

For apportioning Corn Rents on Division of Estates.

XXX. And whereas it may be necessary and convenient for some one or more of the said Proprietors at future Periods to sell and dispose of his, her, or their Estate or Estates in the said Parish or Township liable to the said Corn Rent, or of some Part thereof, and others may be devised by Will, and upon Division of any of the said Estate or Estates in manner aforesaid it may be necessary and convenient

to the Owner or Owners thereof for the Time being to divide and apportion the said yearly or Corn Rents, or Sums of Money charged thereon respectively; be it therefore further enacted, That it shall and may be lawful for the Owner of each and every Estate in the said Parish and Township for the Time being so liable as aforesaid, upon the Division thereof, either by Sale or otherwise (except by Lease or Demise at Rack Rent), to apportion and charge each and every Part of the Estate so divided with a due and fair Proportion of the yearly Corn Rents or Sums of Money so ascertained and set forth by the said Commissioners, provided in every such Division due Regard be had to the Quantity of Acres in and the Rate by the Acre ascertained by the said Commissioners upon the Whole or any Part of such Estate, and that each and every Division may be made to bear a fair and just Proportion of the said yearly Corn Rents or Sums of Money so ascertained by the said Commissioners, as near as may be; and as the Power of recovering the Arrears of the said yearly Corn Rents or Sums of Money is herein-before extended to the whole of each and every Estate, the said Power shall continue and remain the same until a Division of the Estate and Apportionment of the said yearly Corn Rents or Sums of Money shall be made known to the said *Humphrey Waldo Sibthorp* and his Successors for the Time being interested therein, by a written Notice thereof from the Parties, setting forth the Division or respective Divisions of such Lands, and the yearly or Corn Rents charged thereon respectively; which Notice, or a Duplicate thereof, shall be registered in the Episcopal Registry at *Lincoln*, for the Inrolment whereof the usual Fees shall be paid, and a Copy of such Inrolment, signed by the Registrar or other proper Officer for the Time being, shall at all Times be deemed and taken to be legal Evidence thereof; and after such Notice his Power of Distress and Recovery of Rent so apportioned and being in arrear shall be upon each and every Division so made, in like Manner as it is in and by this Act directed upon the whole of such Estates so divided as aforesaid.

Schedule of Corn Rents.

XXXI. And, in order to prevent any Difficulty to the said *Humphrey Waldo Sibthorp*, and his Successors for the Time being, by the Division of any Estate by Sale or otherwise, and to facilitate the future Regulation of the said yearly Corn Rents or Sums of Money; be it further enacted, That the said Commissioners shall and they are hereby required to make or cause to be made Three complete Schedules or Descriptions of each and every Allotment and Parcel of ancient Inclosure, with the Name of the Owner thereof, the exact Measure in Acres, Roods, and Perches, the yearly Corn Rents or Sums of Money issuing out of each respectively, and the Quantity of Wheat which is to govern each of the said future yearly or Corn Rents, or Sums of Money which shall be charged as aforesaid, and each other Requisite as shall be judged proper or necessary by the said Commissioners to render every thing respecting the said yearly and Corn Rents, or Sums of Money, clear and plain in future; which said Schedules and Descriptions shall be signed by the said Commissioners, and one deposited in the Episcopal Registry at *Lincoln*, another of them shall be delivered to the said Rector and his Successors, and the remaining one to be annexed to the Award of

of the said Commissioners directed to be made by this and the said recited Act.

Allotments and Corn Rent to be in lieu of Great and Small Tithes.

XXXII. And be it further enacted, That the Allotment or Allotments which shall be set out for the said *Humphrey Waldo Sibthorp* and his Successors for the Time being, in respect of the Glebe and Common Rights, and the Tithes of the said Lands and Grounds herein-before directed to be divided, inclosed, and embanked, and the Corn Rents required to be ascertained, charged, and paid, as herein-before directed, shall be in lieu of and in full Compensation and Satisfaction for all Glebe Lands and Right of Common in and upon the Lands and Grounds hereby directed to be divided and inclosed, and of and for all the Great and Small Tithes, Moduses, Compensations, and other Payments whatsoever in lieu of Tithes arising, renewing, increasing, appertaining, or due or payable from, out, or in respect of all and every the Messuages, Cottages, Tofts, Homesteads, Gardens, Orchard, inclosed Lands, Open and Common Lands, Fens, Ings, Meadows, Pastures, Woods, Grounds, Common Pastures, Common and Waste Lands, and all other Lands, Tenements, and Hereditaments whatsoever within the Parish and Township aforesaid; and the same Tithes, Moduses, Compositions, and other Payments in lieu of Tithes, shall immediately from and after the making and setting out the Allotments, and ascertaining the said Corn Rents to be paid in lieu and satisfaction thereof as aforesaid, and vesting the same in the said *Humphrey Waldo Sibthorp* and his Successors for the Time being, or at such other Time or Times as the said Commissioners shall in and by their Award, or any Writing to be signed by them previous to the Execution of their Award, direct or appoint, cease, determine, and be for ever extinguished; *Easter* Offerings, Mortuaries, and Surplice Fees only excepted.

Commissioners may compensate Corn Rents on Toftsteads out of Allotments for the same.

XXXIII. Provided always, and be it further enacted, That if at any Time before the Execution of the said Award the Owners or Proprietors of any Toftsteads and Gardens, having Rights of Common or other Claims in and over the Lands and Grounds to be divided and inclosed as aforesaid, and for which any Allotment or Allotments may be made for the same, shall be desirous to exonerate and discharge such Toftsteads and Gardens from the Corn Rent, or Sum of Money in lieu thereof, chargeable on the same, then it shall and may be lawful to and for the said Commissioners, by and with the Consent and Approbation of the said Rector of the Parish of *Washingborough*, and his Successors aforesaid, to give and grant unto the said *Humphrey Waldo Sibthorp*, and his Successors, so much and such Part and Parts of the said Allotment or Allotments to such Proprietor or Proprietors as aforesaid as shall be a full Equivalent to the said Corn Rent or Sum of Money so charged on the said Toftstead and Garden as aforesaid.

Persons not having Open Lands, to pay in Money for the Tithes, or

XXXIV. And be it further enacted, That if the Owner or Owners, Proprietor or Proprietors, or other Person or Persons interested in any Messuages, Lands, Tenements, or Hereditaments within the said Parish of *Washingborough* and Township of *Heighington* aforesaid,

said, or either of them, which are subject and liable to the Payment of Tithes, shall not be entitled to any Allotment or Allotments out of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, or being entitled, such Allotment or Allotments shall not be sufficient to make such Satisfaction and Compensation as aforesaid for all the Tithes, both Great and Small, yearly arising, renewing, increasing, or payable out of or from all or any of his, her, or their Messuages, Lands, Tenements, and Hereditaments within the said Parish and Township, then and in every such Case it shall and may be lawful to and for the said Commissioners and they are hereby required to calculate and ascertain the Value of all the Tithes, both Great and Small, yearly arising, renewing, increasing, and payable out of and from all and every such Messuages, Lands, Tenements, and Hereditaments within the said Parish of *Washingborough* and Township of *Heighington* aforesaid, subject and liable to the Payment of such Tithes as aforesaid, and for which Tithes no Satisfaction or Compensation by an Allotment or Allotments has been made; and the said Commissioners shall and they are hereby required to fix and determine what Sum or Sums of Money shall be paid by the Owner or Owners, Proprietor or Proprietors, or other Person or Persons interested in any such Messuages, Lands, Tenements, and Hereditaments, as together with his, her, or their Allotment or Allotments (if any) in the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, will be a full Equivalent, Satisfaction, and Compensation for releasing, exonerating, and discharging such his, her, or their Messuages, Lands, Tenements, and Hereditaments within the said Parish and Township from all such Tithes as aforesaid; and such Sum and Sums of Money, when so fixed and determined, shall be paid to the said Commissioners at such Place or Places, Time or Times, as the said Commissioners shall appoint; and in case of Nonpayment thereof in manner aforesaid, such Sum and Sums of Money shall and may be levied and recovered by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are or may be levied and recovered; and the Receipt and Receipts of the said Commissioners shall be a full and sufficient Discharge for all and every such Sum and Sums of Money so to be paid to the said Commissioners as aforesaid; and such Sum or Sums of Money, when received by the said Commissioners, shall be by them applied in defraying the Proportion of the Costs, Charges, and Expences of obtaining and executing this Act, to be paid by such several Persons from whose Allotment or Allotments any Deduction or Deductions shall have been made for making such Satisfaction and Compensation as aforesaid, for the Tithes issuing and payable out of or from the several Messuages, Lands, Tenements, and Hereditaments of the several Owners and Proprietors and other Persons interested therein, not being entitled to an Allotment or Allotments out of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, sufficient to make such Satisfaction and Compensation for Tithes as aforesaid; and the Surplus of such Money (if any) after defraying such Costs, Charges, and Expences, shall be divided among the several Persons from whose Allotment or Allotments such Deduction or Deductions shall have been made as aforesaid, in such Shares and Proportions as the said Commissioners shall think right and

may compensate by old Inclosure.

proper; and such Shares and Proportions of such Money shall be paid to such Person or Persons, their respective Heirs and Assigns, in case they shall be Tenants in Fee Simple of their respective Allotments, or otherwise such Shares and Proportions of such Money shall be applied and disposed of in the Manner by this Act directed wherein any Money is to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, and Hereditaments, to be settled to the same Uses; or otherwise the said Commissioners shall and they are hereby authorized and required, in every Case of such Deficiency of Open Lands to make Compensation for Tithes as aforesaid, to allot, set out, and award unto and for the said *Humphrey Waldo Sibthorp*, and his Successors, Rectors as aforesaid, such Parcel or Parcels of ancient inclosed Fen Lands of the same Proprietors respectively, in lieu of the Tithes thereof, or of Part of the same, as the said Commissioners shall judge proper and equivalent to such last-mentioned Tithes.

Corn Rents may be compensated for by an Allotment of Land in lieu thereof.

XXXV. Provided also, and be it further enacted, That if at any Time before the Execution of the said Award the Owners or Proprietors of any Lands or Grounds chargeable with the Corn Rent as aforesaid, having or being entitled to an Allotment or Allotments of Land in and upon the said Fens, Ings, Meadows, Commons, and low Lands, shall be willing and desirous to exonerate and discharge such inclosed Lands from the Corn Rent by a Sum of Money in lieu thereof, or in case it shall happen that such Owner or Proprietor shall not have or be entitled to any Allotment or Allotments in the said Fens, Ings, Meadows, Commons, and low Lands, that then it shall and may be lawful to and for the said Commissioners, with the Consent and Approbation of the said *Humphrey Waldo Sibthorp*, and his Successors, Rectors as aforesaid, but not otherwise, to give and grant unto the said *Humphrey Waldo Sibthorp* and his Successors, so much and such Part and Parts of the said Allotment or Allotments respectively to such Proprietor or Proprietors as aforesaid, or in case of such Proprietor or Owner not being entitled to any Allotment or Allotments, then to permit and allow the said Owners and Proprietors to pay unto the said Commissioners so much and such Sum and Sums of Money as the said Corn Rent shall be found to be worth, on the Value thereof being ascertained by the said Commissioners, at such Time as the said Commissioners shall direct and appoint; and the Money so to be paid by such Owner and Proprietor to the said Commissioners as aforesaid shall be laid out and expended by them in paying and discharging the Costs, Charges, and Expences of obtaining and carrying this Act into Execution, of such several Persons from whose Allotment or Allotments any Deduction shall be made for such Satisfaction as aforesaid, in such and the like Manner as is herein-before particularly prescribed to the Owners and Proprietors of Land not entitled to any Allotment out of the Lands and Grounds to be divided and inclosed, so that the said *Humphrey Waldo Sibthorp*, and his Successors, Rectors as aforesaid, shall have and receive an Equivalent in Land equal in Value to the said Corn Rent, or Sum of Money so charged on the said Lands or Grounds from whence the same was payable as aforesaid.

XXXVI. Pro-

Tithes payable until Award made, or till Commissioners shall otherwise direct.

XXXVI. Provided always, and be it further enacted, That until the Execution of the Award to be made by the said Commissioners, or such other Time previous thereto as the said Commissioners shall by Writing under their Hands direct or appoint, and until Satisfaction and Compensation shall have been made for Tithes as aforesaid, the said *Humphrey Waldo Sibthorp*, or his Successors, shall severally be entitled to, and shall have, receive, and enjoy, all his or their respective Tithes in such Manner as he or they respectively might or could have had, received, and enjoyed the same in case this Act had not been made; and in case such Tithes shall cease or be determined before the End of any current Year, it shall and may be lawful to and for the said Commissioners to apportion and declare what Sum or Sums of Money shall be paid to the said *Humphrey Waldo Sibthorp* and his Successors respectively, for the Fraction of the Year which shall have elapsed prior to such Cessation.

Witham Banks and Drains to remain tithable as heretofore.

XXXVII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to alter, vary, or discharge the Payment or Payments now or hereafter to be made by the Proprietors of the River *Witham* to the said *Humphrey Waldo Sibthorp*, and his Successors, as Rectors of the Parish of *Washingborough* aforesaid, in lieu of Tithes or Glebe Lands cut, covered, or damaged by the said Company of Proprietors in the Execution of the Works of the said River *Witham*; but that all the said Lands, Banks, and Drains shall be and remain subject to Tithe in such and the same Manner as if this Act had not been passed.

Rector to try disputed Claims or Moduses.

XXXVIII. And be it further enacted, That in case any Difference or Dispute shall at any Time arise and subsist by and between the said *Humphrey Waldo Sibthorp*, or his Successors, Rectors as aforesaid, and the Proprietors or Owners of any of the Messuages, Lands, Tenements, and Hereditaments in the Parish and Township aforesaid, relating to any Moduses or Compensations for Tithes which have or hath been heretofore paid or given as a Compensation for the particular Tithe or Article for which the same was or were payable, that then it shall and may be lawful to and for the said *Humphrey Waldo Sibthorp*, or his Successors, Rectors as aforesaid, to institute and prosecute any Proceedings that he or they may think requisite and necessary either in Law or Equity, for the Purpose of trying and substantiating his Right and Title to the same, in such Manner and Form as if this Act had not been made; any thing to the contrary thereof in anywise notwithstanding.

Allotments to the Lord of the Manor in right of Soil.

XXXIX. And be it further enacted, That the said Commissioners shall and they are hereby also required in the next place to set out and allot unto and for the said Sir *William Amcotts Ingilby*, as Lord of the said Manor of *Washingborough*, One Twentieth Part of the then Residue of the unknown Lands and Waste Grounds directed to be divided and inclosed, in lieu of and as a full Compensation for the Right and Interest of the said Sir *William Amcotts Ingilby* in and to the Soil of the said Manor.

XL. And

General Allotments.

XL. And be it further enacted, That from and immediately after the said Commissioners shall have set out Land for the Roads and Ways, and made the several Allotments herein-before directed, they the said Commissioners shall set out, allot, and divide the Residue of the said Open, Commonable, and Waste Lands in the Parish and Township aforesaid, intended to be divided and inclosed, unto and amongst the several Persons and Parties who, at the Time of making such Division and Inclosure, shall be possessed of or entitled to any Land, Right of Common, or other Property therein, (except such Properties for which Allotments shall have been made in manner before directed,) in proportion to the true and real Value of their several Shares, Rights, and Interests, and in full Satisfaction of and for such their said several Shares, Rights, and Interests, to be ascertained and adjudged by such Ways and Means, and in such Manner, as to the same Commissioners shall seem just and expedient, but subject to the Rules, Orders, and Regulations herein contained or referred to, and authorized to be established concerning the same.

Notice to be given of the Allotments when ascertained, and Objections received.

XLI. Provided always, and be it further enacted, That when the said Commissioners shall have ascertained the respective Shares, Rights, and Interests of the said Proprietors in the Lands, Grounds, Commons, and Waste to be inclosed by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, they the said Commissioners shall cause public Notice to be given in the Parish Church of *Washingborough* aforesaid, upon some *Sunday* immediately after Divine Service, or by Writing under their Hands, to be affixed on the Outside of One of the principal Doors of the said Church, of a Meeting to be held at some convenient Time and Place, when and where all Proprietors and Persons interested may be at liberty to see and examine a Schedule of such intended Allotments, with a Map or Plan whereon the same shall be set out and delineated, and may have and receive a Copy of so much of such Schedule as shall relate to the said Proprietors respectively; and if any of the said Proprietors or Persons interested shall be dissatisfied with and make Objections to their intended Allotments, the said Commissioners shall give Notice of One Meeting at the least to be held by them for hearing and finally determining upon all such Complaints and Objections; and their Determination in the Premises, to be signed in Writing under their Hands, shall be binding and conclusive upon all Parties until the Execution of the Award in manner herein-after mentioned.

When the Allotments are made, Commissioners to give Notice thereof.

XLII. Provided also, and be it further enacted, That the said Commissioners, when and so soon as they have finally determined of and concerning the said Allotments, shall cause the same to be staked out, and shall cause public Notice to be given of their having completed all the said Allotments, and shall in such Notice, or by some other Writing or Writings under their Hands to be published together with the same, order and appoint at what Time the said Proprietors may and are required to enter upon their respective Allotments, and how and by whom the same are to be fenced, and from what Time or Times the Right of Common and Pasturage thereon shall respect-

ively cease and be extinguished; all which Orders and Directions of the said Commissioners in the Premises shall be binding and conclusive upon all Parties interested, in the meantime and until the Award herein-after mentioned shall be executed; and every Person entitled to any such Allotment or Allotments shall and is hereby required to accept thereof, and to fence and ditch the same within the Space of Six Calendar Months at farthest next after the Publication of such Notice as aforesaid; and if any Person shall neglect or refuse to accept his, her, or their Allotment or Allotments within the Time aforesaid, every Person so neglecting or refusing shall be, and he, she, or they is or are hereby totally excluded and debarred of and from all Right of Possession, Right of Pasture, Common Right, and other Estate and Interest of and in any Lands or Grounds whatsoever which shall be allotted to any other Person or Persons by virtue of this Act; and if any Person shall neglect or refuse to fence and ditch, within the Time aforesaid, his or her Allotment or Allotments, the said Commissioners are hereby directed and authorized to cause the said Allotment or Allotments to be ditched and fenced, and to levy and raise the Expences attending the ditching and fencing thereof upon the Person or Persons entitled to the said Allotment or Allotments, by such Ways and Means as are provided and mentioned in and by the said recited Act.

Allotments to be fenced.

XLIII. And be it further enacted, That the several Allotments to be made by virtue of this Act to the said *Humphrey Waldo Sibthorp*, as Rector, and his Successors for the Time being, for and in respect of Glebe Lands and Common Rights appertaining to the said Rectory, shall, as soon as conveniently may be after setting out the same, be inclosed and fenced with double ring or outermost Fences of Oak Posts, and Three Rails of Ash or other durable Wood, with a sufficient Ditch on each Side thereof, and planted with good thriving Quickset (except on such Sides and Parts of the said Allotments as shall be directed by the said Commissioners to be fenced by the Proprietors of particular Allotments lying next thereto); and the Expences of all the said Fences shall be paid, borne, and defrayed by the Proprietors of all and every the Allotments to be made by virtue of this Act (except the said *Humphrey Waldo Sibthorp*, as such Rector, and his Successors for the Time being), in such Proportions, and to be paid at such Time or Times, as the said Commissioners, by any Writing under their respective Hands, or in and by their Award, shall order, direct, and appoint; and all such Fences shall at all Times thereafter be maintained and repaired by and at the Expence of the Owners for the Time being of the Lands and Grounds to which they shall be respectively allotted or directed to belong; and the several other Allotments to be made by virtue of this Act shall be inclosed, hedged, ditched, and fenced at the Expence of the respective Proprietors to whom such Fences shall be allotted or directed to belong, in such Manner and within such Time as the said Commissioners shall by their Award, or any Writing under their Hands, order or direct.

Rector may lease his Allotments.

XLIV. And be it further enacted, That it shall be lawful for the said *Humphrey Waldo Sibthorp* and his Successors for the Time being, as

as Rectors as aforesaid, by Indenture or Indentures under his Hand and Seal, with the Consent and Approbation of the Lord Bishop of the Diocese for the Time being, and of the Patron of the said Rectory, to lease or demise all or any Part or Parts of the Allotment or Allotments to be set out and allotted to him as Rector as aforesaid, by virtue of this Act or the said first-recited Act, to any Person or Persons whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent or Rents for the same shall be thereby reserved and made payable to the said *Humphrey Waldo Sibthorp* and his Successors for the Time being, Rectors as aforesaid, by Four equal quarterly Payments in each Year, and so that there be thereby also reserved and made payable to him and his Successors the best and most improved Rent or Rents that can reasonably be had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for the making or granting any such Lease or Demise, and so that no such Lessee by such Lease or Demise be made dispunishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent or Rents to be thereby reserved, within a reasonable Time, to be therein limited, after the same shall become due, and so that a Counterpart of such Lease be duly executed by the Lessee or Lessees to whom such Lease shall be so made as aforesaid; and every such Lease shall be valid and effectual, any thing in the said recited Act contained, or any Law or Usage to the contrary notwithstanding: Provided always, that whenever any Lease or Leases to be so granted shall by any Means become forfeited or void, or be surrendered before the Expiration (by Efluxion of Time) of the Term or Terms thereby granted, then and in such Case, and as often as the same shall so happen, it shall and may be lawful for the said *Humphrey Waldo Sibthorp* and his Successors, Rectors as aforesaid for the Time being, by and with the previous Consent and Approbation of the Lord Bishop of the Diocese for the Time being, to grant a new Lease of the Lands so demised for such Term or Terms of Years as shall at the Time or Times of such Avoidance be then to come and unexpired of the original Term or Terms granted by such original Lease or Leases, subject nevertheless to the Provisions and Conditions contained in such original Lease or Leases, and then remaining unperformed and capable of having effect; and every such Lease shall be valid and effectual, any thing in the said recited Act of the Forty-first Year of the Reign of His late Majesty, or any Law or Usage to the contrary notwithstanding.

Drainage.

XLV. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, by such Agents, Workmen, or Labourers as they shall think fit to employ, to enlarge, straighten, make deeper, and embank any of the ancient Drains and Sewers already made in, over, or through any of the said Fens, Ings, Meadows, Commons, and inclosed low Lands intended to be embanked and drained as aforesaid, and to enlarge, raise, widen, or otherwise to alter and improve any of the Cloughs, Arches, Banks, Bridges, or other Works already made thereon, and also to make or cause to

be made such Sluices or Cloughs in such Places as shall appear to the said Commissioners most proper and convenient, and of such Dimensions and Capacity, and in such Manner and Form in every respect, as shall be necessary and expedient for the Purpose of Drainage; and also to make or cause to be made any new Cuts, Drains, Dams, Sewers, Ditches, Banks, Tunnels, Outlets, Engines, Cloughs, Bridges, and other Works which shall be needful, in, through, and upon any Part or Parts of the said Lands, so as to protect the same from ordinary Floods; and also to make or cause to be made any Ways, Roads, Cuts, or Drains within the said Lands, and also to scour out, cleanse, widen, and make deeper, in their Discretion, all and every the Drains and Sewers already made in, over, or through any of the ancient inclosed high Lands in the Parish and Township aforesaid, as they the said Commissioners shall from Time to Time think necessary or expedient; and in and by their Award, or by any Writing under their Hands, in the meantime to appoint any such Person or Persons, and to make such Orders and give such Directions for carrying on, effecting, and preserving such Works, and for maintaining, supporting, and keeping the same in good and sufficient Repair from thenceforth for ever thereafter, as the said Commissioners shall think proper, just, and equitable; and to make such Recompence and Satisfaction to any Person or Persons in whose Lands or Grounds such Cuts, Drains, Sewers, Sluices, and other Works shall be made, or who may be prejudiced thereby, or by means or in consequence thereof, or for the Value of the Grounds to be used for the Purposes aforesaid, and all such other Damages as he, she, or they shall thereby sustain, as shall or may be agreed upon between the said Commissioners and the Owner or Owners or the Person or Persons who shall be prejudiced as aforesaid; and such Recompence and Satisfaction shall and may be raised in the same Manner as the other Expences for executing the said Works of Drainage, and shall be paid to such Person or Persons, and in such Shares and Proportions, as the said Commissioners shall think just and equitable, and shall accordingly order and direct, and shall be made and accepted in full Satisfaction for all such Damage as aforesaid; and if the said Commissioners and such Person and Persons cannot agree concerning the Amount of such Damages, then the same shall be assessed, adjusted, and finally determined before such Justices of the Peace, or the major Part of them, as shall be assembled at any General Quarter Sessions of the Peace which shall be held for the Division of *Kesteven* aforesaid within Four Calendar Months after the said Damages shall have respectively accrued, Fourteen Days Notice in Writing being given to the said Commissioners by the Person or Persons complaining of such Damage, that an Application will be made to such Quarter Sessions; and in case such Owner or Owners, or Persons prejudiced as aforesaid, shall make Oath that in his, her, or their Opinion or Judgment such Damage exceeds the Value of Ten Pounds, such Justices shall and they are hereby respectively authorized and required to charge the Jury which shall attend at such Sessions, or some other Jury of Twelve honest and disinterested Men, to be then and there impannelled and returned by the proper Officer returning Jurors for such Court, without Fee or Reward, and cause them to be sworn, and truly on their Oaths to assess the Recompence to be made for such

 Damages

Damages (which Oath the said Justices are hereby respectively required to administer to the said Jurymen), to which Jurymen the said Commissioners and the Parties complaining shall have their lawful Challenges; and the said Jury being so charged and sworn as aforesaid, and after proper Evidence upon Oath to them given of the Nature of such Damages, shall by their Verdict assess the Damages and Recompence to be made for the same, by such Owner or Owners, or Persons prejudiced as aforesaid; and the Verdict of the Jury, and the Judgment of the Justices thereupon, shall be final, binding, and conclusive to all Parties: Provided always, that such Justices shall and may adjourn such Appeal to any other Sessions of the Peace for the Division aforesaid, and finally determine the same at any of the said Sessions, and give Costs to either Party, as they shall think reasonable.

Application of Compensation if amounting to 200*l.*

XLVI. And be it further enacted, That whenever any Sum of Money is, under the Provisions of the said first-recited Act of the Forty-first Year of the Reign of His late Majesty or this Act, to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, which shall belong to any Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, for or in behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person or Persons whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, it shall and may be lawful to and for the said Commissioners out of such Sum to defray such Proportion of the Expence of passing this Act, and of carrying the same and the said recited Acts into Execution, as shall, if any, be charged upon any of the Lands, Tenements, or Hereditaments of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee, in Possession of the Lands, Tenements, or Hereditaments so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made, and shall be made under their Direction upon any Lands to be by virtue of this Act allotted to such Person or Persons, Body Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Corporation Aggregate or Sole, Tenant for Life or in Tail, Feoffee, Executor, Administrator, Husband, Guardian, Committee, or Trustee respectively; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* the Commissioners for executing this Act,

pursuant

pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His present Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court, made upon a Petition to be preferred to the said Court in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts, or other Incumbrances, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or redeemed, or paid or discharged, or such Part or Parts thereof as shall be necessary; or until the same shall, upon the like Application, be laid out in a summary Way by Order of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the afore-mentioned Lands, Tenements, or Hereditaments stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime, and until such Order can be made, the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or Government or Real Securities; and in the meantime and until the said Bank Annuities, or Government or Real Securities, shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of the said Consolidated or Reduced Bank Annuities, or Government or Real Securities, shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, or Hereditaments so to be purchased, conveyed, and settled. 1 G. 4. c. 35.

Where less than 200*l.* and amounting to 20*l.*

XLVII. Provided always, and be it further enacted, That in case the Surplus of such Money shall be less than the Sum of Two hundred Pounds and shall exceed or amount to the Sum of Twenty Pounds, then and in such Case the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be

applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees to be nominated by the Person or Persons who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments (such Nomination to be approved by the said Commissioners, and such Nomination and Approbation to be signified in Writing under the Hand of the nominating and approving Parties); and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to the Money so to be paid into the Bank in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

Where under 20*l.*

XLVIII. Provided also, and be it further enacted, That in case the Surplus of such Money shall be less than Twenty Pounds, then and in all such Cases the same shall be paid to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased or exchanged, for his, her, or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person or Persons respectively entitled thereto.

This Act not to prejudice the Works of the River Witham.

XLIX. Provided always, and be it further enacted, That nothing in this Act contained shall authorize or empower the Commissioners or Trustees acting by virtue thereof, or any of the Owners or Proprietors of the Lands and Grounds hereby intended to be drained, to invalidate, lessen, alter, or take away any of the Rights, Powers, or Authorities vested in all or any of the Commissioners acting under or by virtue of an Act passed in the Second Year of the Reign of
2 G. 3. c. 32. His late Majesty King *George* the Third, intituled *An Act for draining and preserving certain low Lands called the Fens, lying on both Sides 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*; and under and by virtue of a certain other Act, passed in the Thirty-
32G.3. c.107. second Year of the same Reign, intituled *An Act for enlarging and improving the Canal called* Tattershall Canal, *from the River* Witham *to the Town of* Tattershall, *and extending the same into the River* Bain, *and for making the said River* Bain *navigable from thence to or into the Town of* Horncastle, *all in the County of* Lincoln; *and also for amending and rendering complete the navigable Communication between the said River* Witham *and the* Fosdyke Canal, *through the* High Bridge *in the City of* Lincoln; and under and by virtue of a certain other Act of Parliament, made and passed in the Fifty-second Year of the Reign of His said late Majesty King *George* the Third, intituled
52G.3. c.108. *An Act for rendering more effectual an Act of His present Majesty, for draining Lands on both Sides of the River* Witham *in the County of* Lincoln, *and restoring the Navigation of the said River; and for repealing another Act of His present Majesty, in relation to the said*

Drainage and Navigation; but that the same shall respectively be and continue in force as fully to all Intents and Purposes as if this Act had not been made; any thing herein contained to the contrary thereof in anywise notwithstanding.

Not to prejudice Drainage of adjoining Parishes.

L. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to authorize or empower the said Commissioners, or any of them, or any other Person or Persons under the Authority or by virtue of this Act, to make or alter, or cause to be made or altered, any Cloughs, Sluices, Tunnels, Drains, Banks, Engines, or other Works, to prejudice, obstruct, or injure the Drainage of any low Lands in any Parish, Township, Hamlet, or Place lying adjacent to the River *Witham*, and Drainage thereby, not included in the Limits and Boundaries of this Act.

Commissioners to set out private Roads over Lands to be drained.

LI. And be it further enacted, That the said Commissioners shall and they are hereby empowered and required, in order to obviate any Inconvenience that may arise to the Occupiers of any of the said Fens, Ings, Meadows, Commons, and inclosed low Lands intended to be embanked and drained as aforesaid, by reason of any of the present Communications being interrupted or stopped up by the Works of Drainage to be made and executed under the Authority of this Act, to set out and appoint such additional private Roads and Ways in, over, or through any of the same Lands, of such Width as the said Commissioners shall think necessary, useful, and convenient; the said Commissioners causing Satisfaction to be made, out of the Monies to be raised towards defraying the Expences of the Works of Drainage, to the Owners, Proprietors, and Occupiers of such Lands through which any new Roads or Ways shall be made, for any Damages they may sustain thereby, as to the said Commissioners shall seem meet; and from and after the setting out of such additional Roads and Ways (if any) it shall not be lawful for any Person or Persons to make use of any other Roads or Ways in, over, or through the said Lands so intended to be embanked and drained, or any of them, either on Foot or with Horses, Cattle, Carts, or Carriages, other than such Roads and Ways as are now in being; and shall not be altered or stopped up by the said Commissioners, and also such additional Roads and Ways as shall be set out and appointed under or by virtue of this Act or the said recited Acts; and that such of the former Roads and Ways through the said Lands so intended to be embanked and drained which shall be altered or stopped up, shall by the said Commissioners be awarded to the Person or Persons whose Lands shall be adjoining or contiguous thereto, he, she, or they making such Satisfaction for the same as the said Commissioners shall, in and by any Writing under their Hands, direct or appoint.

For preserving Watering Places for Cattle.

LII. And be it further enacted, That if by means of embanking and draining the said low Lands any Cattle which used to depasture in the Lands and Grounds adjacent to any of the Rivers or Drains intended to be embanked, shall be deprived of their accustomed or usual Watering Places, then and in every or any such Case the said Commissioners

Commissioners shall and they are hereby required, at the Costs and Charges of the Proprietors of the Lands and Grounds, to make such new Watering Places, and to lay such and so many Tunnels as shall be necessary through the Banks of such Drains, and make Cuts therefrom to communicate with such Watering Places as aforesaid, or otherwise set out and provide proper and convenient Places in the said Drains, whereby the said Cattle may be conveniently and properly supplied with Water.

Works of Drainage to be vested in the Commissioners.

LIII. And be it further enacted, That all the Cuts, Drains, Ditches, Banks, Sluices, Tunnels, Bridges, Trays, Stamps, Outlets, Engines, and other Works already made or erected, or which shall at any Time hereafter be making or erecting, or made, erected, supported, and maintained by virtue of this Act, for the Purpose of draining and protecting the said Fens, Ings, Meadows, Commons, and inclosed low Lands, and the Rights and Property to and in the same, and the Materials of which the same shall consist, shall be and are hereby vested in the said Commissioners hereby nominated and appointed, and their Successors, until their Power and Authority in executing this Act shall cease, and until Trustees shall be appointed by virtue of this Act; and after such Appointment shall be certified as herein-after mentioned, then the said Works, and the Right and Property to and in the same, and the Materials of which the same shall consist, shall be and are hereby vested in the said Trustees; and the Commissioners and Trustees are hereby respectively authorized to bring or cause to be brought any Action or Actions in their or his own Name or Names, or in the Name of any one of them, or to prefer or order and direct the preferring of Indictments, or other Proceedings, against any Person or Persons who shall dig up, break, pull down, steal, take, carry away, destroy, spoil, or injure any of them, or any Part thereof, or the Materials of which the same shall be made, built, or consist.

Drains to be cleansed in case Proprietors neglect.

LIV. And be it further enacted, That if any Proprietor or Proprietors, Occupier or Occupiers, of any of the said Lands intended to be drained by virtue of this Act, or other Person or Persons who shall be declared liable to the cleansing, scouring, or deepening of the Drains and Sewers through the ancient inclosed high Lands as aforesaid, shall refuse or neglect to cleanse and scour out, and keep sufficiently wide and deep, any Drain, Ditch, or Dike, or neglect to make and keep in repair any private Road or Way, Fence, Dam, Bank, Bridge, Gate, Stile, or Tunnel, which shall be directed in and by the Award of the said Commissioners to be scoured, cleansed, made or kept in repair by him, her, or them, in such Manner as shall be therein directed, after Fourteen Days Notice in Writing shall have been given to him, her, or them, for that Purpose, by the Officer or Officers for managing the Works of the said Drainage for the Time being, it shall be lawful for such Officer or Officers, and he and they is and are hereby authorized and required, to cause such Drain, Ditch, or Dike to be cleansed and scoured, or such private Road or Way, Fence, Dam, Bank, Bridge, Gate, Stile, or Tunnel to be made and repaired, in such Manner as shall be in the said Award directed; and the Proprietor or Proprietors, Occupier or Occupiers, so refusing or neglecting

neglecting as aforesaid shall reimburse and pay to such Officer or Officers all such Costs, Charges, and Expences as shall be incurred by the cleansing, scouring, making, and repairing of any Drain, Ditch, or Dike as aforesaid, with reasonable Satisfaction to such Officer or Officers for his or their Time and Trouble therein; and in case such Proprietor or Proprietors, Occupier or Occupiers, shall (after Demand thereof made by such Officer or Officers) refuse or neglect to reimburse and pay all such Costs, Charges, Expences, and Satisfaction as aforesaid, then the same shall and may be levied by Distress and Sale of the Goods and Chattels of the Party so refusing, by virtue of a Warrant or Precept under the Hands and Seals of the said Commissioners, Trustee or Trustees, for the Time being, for putting this Act into Execution.

Charges of Drainage and Inclosure how apportioned.

LV. And be it further enacted, That the Costs and Charges of obtaining and passing this Act, and of surveying all the Messuages, Lands, and Premises comprised therein, both open and inclosed, and settling the Compensation for Tithes, and of dividing and allotting all the said Open Lands, and of setting out, forming, and making the public Bridle Roads, private Roads and Ways, Banks, Bridges, Drains, Cloughs, and Watercourses, in, upon, through, or over the same Lands; and also of inclosing the Allotments hereby directed to be made to the said *Humphrey Waldo Sibthorp*, as Rector of the Parish of *Washingborough* aforesaid, and his Successors, in lieu of Glebe, Common Rights, and Tithes in, over, and upon the said Fens, Ings, Meadows, and Open Lands as aforesaid, and of preparing and enrolling the Award, and the reasonable Charges and Expences of the said Commissioners, and of the said Surveyor, and other proper and necessary Expences in the Execution of this Act; and also the Expences of Lands purchased for the cutting of Drains, and erecting Banks, and the Charges and Expences of making, erecting, supporting, and using the said Works of Drainage, and all other Expences of embanking and draining the said Fens, Ings, Meadows, Commons, and low Lands, shall from Time to Time, as the said Commissioners shall see Occasion, be borne and defrayed by the Owners and Proprietors of the said open and inclosed Lands, (the said *Humphrey Waldo Sibthorp*, as Rector, in respect of his Glebe, and Allotments for Glebe, Common Rights, Tithes, and Corn Rent in lieu of Great and Small Tithes, only excepted), in such Proportions and in such Manner as the said Commissioners shall, in and by any Writing made and signed by them previous to the Execution of their said Award, order, direct, and appoint; and in case any Proprietor or Owner shall refuse or neglect to pay his, her, or their Proportion of any such Costs, Charges, and Expences as aforesaid, within the Time or Times respectively for that Purpose to be limited by the said Commissioners, to such Person or Persons as the said Commissioners shall appoint to receive the same, then it shall be lawful for the said Commissioners, or any Person or Persons to be authorized by them or him, to enter into and upon the Lands so to be inclosed, exonerated from Tithes, or drained respectively, of such Person or Persons so refusing or neglecting, and the Rents, Issues, and Profits thereof to receive and take, until thereby or otherwise his, her, or their said Share or Proportion of the said Costs, Charges, and Expences, together with

with all Costs, Charges, and Expences occasioned by and attending such Entry upon and Receipt of the Rents and Profits of the same Premises respectively, and also Interest for such Share and Proportion from the Time the same shall be made payable by the said Commissioners, shall be fully paid and satisfied.

Works of Drainage, how paid.

LVI. And be it further enacted, That the Costs and Charges herein directed to be paid by the Owners and Proprietors of the said Fens, Ings, Meadows, Commons, and inclosed low Lands intended to be embanked and drained (except the Expences of inclosing the Lands before provided for,) shall be borne and defrayed in manner following; that is to say, the Owners and Proprietors of all the taxable Land lying in the Parish of *Washingborough* and Township of *Heighington* aforesaid shall, according to the proportionate improved annual Value (if any) which they shall respectively derive therefrom, bear and defray the Charges and Expences of making all such Cuts, Drains, Ditches, Dams, Banks, Sluices, Tunnels, Bridges, Trays, Stamps, Outlets, Engines, and other Works as are necessary and requisite for the said Drainage, and the reasonable Charges and Expences of the Commissioners, and of the Surveys to be made and taken within the same, and of the Award of the same, and all other proper and necessary Expences in the Execution of this Act, in relation to the Drainage of the same Parish and Township; and that the several Proprietors, Persons, and Parties hereby respectively charged with and made liable to the first making and executing of the said several Works of Drainage shall, from and after the making and executing the same, for ever thereafter remain subject and liable in the like Proportions to the Support, Maintenance, and Reparation thereof respectively.

Quantity and Value of Land liable to Expences ascertained.

LVII. 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 passing of this Act, to ascertain the Quantity of Land within the Parish and Township aforesaid respectively which may be benefited by the said Drainage and Embankment, and also comprised within the said Inclosure, and the estimated improved annual Value of the said Lands; and when and as soon as they shall have ascertained the same, then do and shall apportion and charge the several Proprietors of the said Parish and Township respectively with the Share and Proportion of the Costs and Charges of obtaining and passing this Act, and of executing the Works of Drainage and other Works herein directed to be paid for and done and executed at the Expence of the Proprietors of the said Lands intended to be embanked and drained; and such shall be and be taken to be the Rule and Standard of the Quantity and annual Value of the said Lands and Grounds for the Purpose of charging the several Proprietors of the said Parish and Township respectively, not only with the Costs and Charges herein directed to be paid and defrayed at the Expence of the said Parish and Township, but also with all future Costs, Charges, and Expences for maintaining and supporting the said Works of Drainage, or other Things necessary thereto, to be made and supported at the Expence of the said Parish and Township.

LVIII. And

Lands of Proprietors charged to the Drainage to be ascertained.

LVIII. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained and declared the Proportion in which the said Parish and Township shall be respectively charged to this Act and the said Works of Drainage, the said Commissioners shall and they are hereby empowered and required to ascertain the estimated annual improved Value of the said Lands and Grounds, and the Names of the Proprietors thereof, and to apportion and charge the Proprietors of such Lands so to be drained in each Place with their respective Proportions of the said Expence, to be ascertained by the said Commissioners in manner aforesaid, as also with the Costs and Charges of the Works of Drainage to be exclusively borne and paid by the Proprietors of the said Parish and Township, and the annual Tax or Assessment herein-after authorized to be charged upon and paid in respect of the same Lands for the Support and Preservation of the said Drainage, among and in proportion to the improved annual Value (if any) which the said Lands and Grounds shall respectively derive therefrom; and Particulars and Schedules thereof shall be fairly written or ingrossed on Parchment, and enrolled with the Award of the said Commissioners; and the Determination of the said Commissioners shall be and be taken to be the Rule and Standard both as to the Quantity and annual Value of the said Lands and Grounds, whereby all Taxes, Assessments, and Rates to be charged, raised, levied, and paid upon, for, or in respect of the said Lands and Grounds so to be embanked and drained in the said Parish and Township, as well for effecting such Embankment and Drainage as for preserving and maintaining the same, shall be respectively levied, taxed, charged, and proportioned.

Commissioners, &c. may let Herbage of Banks and Roads.

LIX. And be it further enacted, That the said Commissioners and Trustees respectively shall and may, and they are hereby authorized and required from Time to Time to let the Herbage and Produce of the Banks to be made or erected by virtue of this Act, or any other Bank or Banks within the same Parish and Township, as also the public Roads or Highways within the taxable Lands aforesaid, publicly to the best Bidder or Bidders, for any Term not exceeding Three Years, subject to such Covenants and Regulations respecting the said Banks and Roads or Highways as they the said Commissioners and Trustees respectively shall think proper; provided the Person or Persons taking the same is and are restrained from stocking the said Banks, Roads, and Highways with any other Cattle than Sheep; and the Rents and Profits of such Banks and Roads or Highways shall be applied by the said Commissioners and Trustees respectively to the Purposes of the said Drainage and Repairs of Highways, as they shall direct in and by their Award for that Purpose.

Leases of Open Lands vacated, and Directions respecting Leases of inclosed Lands.

LX. Provided also, and be it further enacted, That all Leases and Agreements for Leases at Rack Rent now subsisting of any Part or Parts of the said Open Lands hereby directed to be divided and inclosed, or of any Interest therein, alone or together with any other Lands, Tenements, or Hereditaments, shall, so far only as respects the said Open Lands, or any Interest therein, cease, determine, and be void, at such Time or Times as the said Commissioners shall, by Writing

Writing under their Hands, direct or appoint; and the said Commissioners are hereby authorized and required, if the Parties differ about the same, upon the Request of either of them, to declare and determine what Part or Parts of the said Open Lands so to be set out and allotted for the Proprietor or Proprietors granting any such Leases or Agreements, shall be enjoyed by such Lessee or Lessees in respect to his or their Interest in the said Lands so directed to be inclosed, and to specify the Lands, by Writing under their Hands, which it shall be lawful for such Lessee or Lessees respectively to hold and enjoy for the Residue then to come in such Lease or Leases, in lieu and stead of the said Open Lands, or any Interest therein originally comprised in any such Lease; and it shall also be lawful for the said Commissioners, upon the Application in Writing of either Party interested in any such Lease, or in any Leases subsisting of any other of the said Lands intended to be embanked and drained, or upon any of the said inclosed Lands in the Parish and Township aforesaid intended to be exonerated from Tithes as aforesaid, to ascertain and determine what increased Rent shall be paid or allowed to the respective Lessor or Lessors for such Lands, for and during the Continuation of the Term or Terms in such respective Lease or Leases, in respect of the Benefit to be derived by reason of the improved Value of the said Lands intended to be embanked and drained, the Exoneration of all the said Lands from the Payment of Tithes in Kind, and from the Inclosure of the Open Lands in the Parish and Township aforesaid; and also to order and direct the Mode of Cultivation which all the said Lands, except the said inclosed Lands in the same Parish and Township shall respectively be subject to, with respect to the sowing, tilling, cropping, fallowing, continuing in pasture, or laying down the same, for the Residue of the Lease or Leases respectively subsisting thereon; and any Lessee or Lessees disobeying or neglecting any of the said Orders and Directions of the said Commissioners in the Premises, shall be subject and liable to the several Penalties and Forfeitures which shall be imposed by the said Commissioners, and which are usual in Cases of the like Nature; and such Advance or Increase of Rent, together with the Penalties and Forfeitures to be incurred by disobeying or neglecting any of the Orders and Directions of the said Commissioners, shall be paid to and recovered by the respective Lessor or Lessors, in the same Manner and on the same Days and Times as and when the several other reserved Rents and other Penalties and Forfeitures in such respective Lease or Leases are, shall, or may be recovered, or reserved due and payable respectively, during the Residue of the said Term or Terms of such respective Lease or Leases.

Exchanges may be made.

LXI. And be it further enacted, That for the more convenient Situation and Disposition of the said several Farms and Lands within the Parish and Township aforesaid, it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatever, within the said Parish and Township aforesaid, in lieu of and in exchange for any other Lands, Tenements, and Hereditaments whatsoever within the same Parish and Township, or within any adjoining Parish, Township, or Place; provided that all such Exchanges be ascertained, specified, and declared in the

Award

Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politic, Corporate, or Collegiate, or 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, Idiots, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever; provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the 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 every such Exchange or Partition, shall be borne and defrayed by the respective Parties making such Exchange and Partition, distinct and apart from the other Expences attending the Execution of this Act, in such Manner as the said Commissioners shall order and direct.

This Act not to revoke Wills or Settlements.

LXII. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to make void, alter, or annul any Will or Settlement of or concerning any of the Lands, Tenements, and Hereditaments which shall be allotted or exchanged by virtue of this Act, or prejudice any Person having any Claim or Interest in, to, or out of the same Lands, Tenements, and Hereditaments, shall, upon the Allotment and Exchange thereof respectively, become or be of the same Tenure, and be held under the same Rents and Services, and go and remain to the same Persons, for the same Estates and Interests, and to the same Uses, upon the same Trusts, and to and for the same Intents and Purposes, and be under and subject to the same Powers, Provisoes, Limitations, Conditions, Covenants, Agreements, Debts, Charges, Incumbrances, and Provisions of every kind, and in the Manner as the Lands and Hereditaments in respect whereof the same shall be respectively allotted or exchanged are or would be held, or go along, stand, or be limited to or upon, or be subject to, if such Allotment or Exchange had not been made, or this Act had not passed; except as to such Leases and Agreements for Leases at Rack Rents, or from Year to Year, as shall be determined by virtue of this Act, or where any of the Provisions of the said recited Act or of this Act shall be to

the contrary; and also except such Charges and Incumbrances as shall be made thereon by virtue of the said recited Act and this Act, or any of them.

Proprietors may sell and convey Lands and Common Right, separate and apart from their other Properties, before the Award; and the Allotment to be made to the Purchaser.

LXIII. And be it further enacted, That if any Person has sold, or contracted or agreed to sell, or shall at any Time before the Execution of the said Award sell, or contract or agree to sell, his, her, or their Right, Interest, or Property in, over, and upon the said Fens, Ings, Meadows, and other Commonable Lands or Waste Grounds, or any Part thereof, to be divided, allotted, or inclosed by virtue of this Act, whether the same be Right of Common or otherwise, which he or she shall have Power to do, separate from his, her, or their Property, to any Person whomsoever, and Notice shall be given thereof in Writing by the Vendor or Vendors to the said Commissioners, then in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to make an Allotment or Allotments of Land unto the Vendee or Purchaser in such Contract, Sale, or Agreement, or to his, her, or their Heirs or Assigns, for or in respect of such Right, Interest, or Property so sold as aforesaid; and all Sales, Conveyances, or Contracts for Sale of such Right or Allotments respectively, shall be and are hereby declared to be valid and effectual, and the same Rights or Allotments may be granted and conveyed accordingly; and every such Sale, being specified and set forth in the Award of the said Commissioners, shall be good, valid, and effectual to all Intents and Purposes whatsoever.

How the Proportion of the Charges on the Charity Lands shall be paid.

LXIV. And be it further enacted, That the said Commissioners shall and may and they are hereby authorized and required to divide and set out, from the Lands and Grounds to which the Trustees or Guardians of the several Charities established in the said Parish and Township by Sir *Edward Clark* Knight, *Ralph Eure* Esquire, *Thomas Garratt* Gentleman, *Timothy Pike*, or any other Person or Persons who are or is entitled in the said Fens and Commons to be divided and inclosed, such Part and Parts thereof as shall in the Judgment of the said Commissioners be equal in Value, reckoning the Sum of Five Pounds for each and every Acre, to the Share or Proportion which shall by the said Commissioners be rated or charged upon the said Lands and Grounds respectively, towards the Costs, Charges, and Expences of the said Commissioners, and all other Expences attending the Premises, and also to the Share and Proportion which shall by the said Commissioners be rated or charged by the said Award, or before the making thereof, upon or for the same Lands or Grounds respectively, towards the Expences of dividing and inclosing, and embanking and draining the said Fens, Commons, and low Lands, and other Costs and Charges of the said Act; and to convey in Fee Simple the said respective Shares or Parts to be divided and set out as aforesaid to such Proprietor or Proprietors of Lands in the Parish and Township aforesaid, or to such other Person or Persons as shall contract and agree to pay and defray the said respective Shares and Proportions of the Expences aforesaid, when the same shall become payable as aforesaid.

Power to borrow Money.

LXV. And be it further enacted, That it shall and may be lawful to and for the several Owners and Proprietors, or any of them, for the Time being, of any of the said Lands or Tenements in the said Parish of *Washingborough* or Township of *Heighington*, and to and for the Husbands, Guardians, Trustees, Committees, or Attornies for the said Owners and Proprietors of the said low Lands so intended to be embanked and drained as aforesaid, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or otherwise incapable to act for themselves, and to and for every of them for the Time being, and to and for any of the said Owners or Proprietors, being Tenants in Tail or for Life only, and to and for every of them respectively for the Time being, by and with the Consent of the said Commissioners in Writing under their or his Hands and Seals, or Hand or Seal, from Time to Time to charge the said Fens, Ings, Meadows, Commons, and inclosed low Lands which are intended to be drained by virtue of this Act, with any Sum or Sums of Money, not exceeding Five Pounds an Acre, for defraying the Charges and Expences herein provided for in relation to the said Drainage; and for securing the Repayment of such Sum and Sums of Money, with Interest, to grant, mortgage, lease or demise, or otherwise subject the said Lands unto such Person or Persons as shall advance and lend such Sum and Sums of Money respectively, for any Term or Number of Years, so as every such Grant, Mortgage, Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied, and so as every such Grant, Mortgage, Lease, or Demise do also contain a Proviso that the Person or Persons entitled in Remainder or Reversion to any of such Lands shall not be liable, upon his, her, or their becoming possessed thereof, to the Payment of any further or larger Arrear of Interest than for Six Calendar Months preceding the Time that his or their Title to such Possession shall have commenced.

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

LXVI. And be it further enacted, That it shall be lawful for any Tenant or Tenants in Tail or for Life of any of the said Fens, Ings, and low Lands intended to be drained by virtue of this Act, by any Deed or Deeds in Writing, or by his, her, or their last Will and Testament duly executed according to Law, to charge such low Lands so to be embanked and drained as aforesaid, as shall not have been so mortgaged, with such Sum or Sums of Money, not exceeding Five Pounds for each and every Acre, as shall be appointed by the Commissioners for putting this Act in execution to be paid, and which by any Writing or Writings under the Hands of the said Commissioners shall be certified to have been accordingly paid by such respective Tenant or Tenants in Tail or for Life, or for his, her, or their Share or Proportion of the Costs, Charges, and Expences of the said Drainage; which Sum and Sums of Money so to be charged as aforesaid shall be payable within One Year next after the Decease of every such Tenant in Tail or for Life, with Interest for the same after the Rate of Five Pounds *per Centum per Annum*, to be computed from his, her, or their respective Deceases, unto such Person or Persons as such Tenant or Tenants in Tail or for Life shall by such Deeds

or

or Wills and Testaments respectively direct or appoint, and in default of such Direction and Appointment, to his, her, or their respective Executors or Administrators.

Not to raise more Money by Sale than the Party were authorized to charge on their Allotments, &c.

LXVII. Provided always, and be it further enacted, That it shall not be lawful, by virtue of this Act, to raise by any such Sale as hereinbefore mentioned, or by mortgaging or charging, by virtue of this Act, any greater or further Sum of Money in the whole for the Purpose of defraying the Costs, Charges, and Expences of obtaining and carrying into execution this Act, and of fencing, inclosing, and subdividing such Allotment or Allotments, than such Owners or Proprietors would have been empowered or authorized to borrow or charge upon his, her, or their Allotment or Allotments (reckoning Five Pounds for each and every Acre thereof), under or by virtue of the said first-recited Act, for the Purpose of defraying the Costs, Charges, and Expences of obtaining and executing this Act.

All such Charges shall be valid.

LXVIII. And be it further enacted, That every such Grant, Mortgage, Lease, or Demise, and every such Charge as aforesaid, to be made of or upon any of the said low Lands, shall be good, valid, and effectual in the Law for the Purposes hereby intended, notwithstanding the Want of Title in the said Husbands, Guardians, Trustees, Committees or Attornies, or Tenants in Tail or for Life, and notwithstanding any Settlement, Will, Trust, Use, Remainder, Limitation, or other Incumbrance of or concerning the same Fens, Ings, and low Lands, or any Part or Parts thereof, then in being or capable of taking effect to the contrary.

Power to Rector to borrow Money.

LXIX. And whereas the said *Humphrey Waldo Sibthorp*, as Rector as aforesaid, may have occasion to borrow Money for defraying his Proportion of the Expences attending the making and erecting the Banks, Drains, Tunnels, Sluices, Bridges, and other Works, but cannot without the Authority of Parliament make any effectual Security for the Repayment of the Money so borrowed; be it therefore further enacted, That it shall be lawful for the said *Humphrey Waldo Sibthorp*, or his Successors, Rectors of the said Parish of *Washingborough* aforesaid for the Time being, and he and they is and are hereby authorized and required, by and with the Consent and Approbation of the Lord Bishop of *Lincoln* for the Time being, to charge all or any Part of the said Glebe Lands so embanked with any Sum or Sums of Money which shall be certified by the said Commissioners to have been paid by the said *Humphrey Waldo Sibthorp*, or his Successors, Rectors aforesaid, towards the erecting and making of the Banks, Drains, Tunnels, Sluices, Bridges, and other Works; and for securing the Repayment thereof, with Interest, to grant, mortgage, lease, or demise the said Glebe Lands so to be charged, unto such Person or Persons who shall advance and lend the same, and to his, her, or their Executors, Administrators, and Assigns, for any Term not exceeding Twenty-one Years from the Day of the Date of such Grant or Demise, such Grant or Demise to be made and executed within One Year from the Completion of the said Works of Drainage; and also to contain a Proviso to be void, or an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured

as aforesaid, with the Interest thereof, shall be fully paid and satisfied; and also to contain one other Proviso or Condition, that the said *Humphrey Waldo Sibthorp*, and his Successors, Rectors of the Parish aforesaid for the Time being, shall, at the End of every Year from the Commencement of the said Term, pay to the Person or Persons to whom such Grant or Demise shall be made, his, her, or their Executors, Administrators, or Assigns, One Twentieth Part of the Principal Money so to be borrowed for the Purpose aforesaid, until the whole thereof shall be paid off and discharged, and pay and keep down the Interest of the said Money so to be borrowed, in such Manner that no future Rector or Rectors of the said Parish becoming possessed of such Lands shall be subject or liable to pay any future or larger Share of such Money than his or their Proportion thereof according to such last-mentioned Proviso or Condition, or any Interest for the same save only from the Day of the Death, Resignation, or Cession of the Predecessor of such future Rector or Rectors respectively.

Power of Commissioners to cease upon the Election of Trustees.

LXX. Provided always, and be it further enacted and declared, That from and immediately after the Election of Trustees for the Purposes of continuing and preserving the said Works of Drainage as herein-after mentioned, the several Powers and Authorities granted to the said Commissioners shall cease and determine, any thing herein-before contained to the contrary notwithstanding: Provided nevertheless, that the said Commissioners shall have full Power and Authority by virtue of this Act, at any Time or Times after such Election of Trustees, to levy, recover, and receive all such Rates, Taxes, Costs, Charges, and Sums of Money as before the Time of such Election shall have been rated, taxed, or charged by them upon any of the said Lands or Grounds hereby intended to be embanked and drained, and which shall then be in arrear and unpaid.

Money advanced by Proprietors to be repaid with Interest.

LXXI. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or embanked and drained respectively, or any Person or Persons on his, her, or their Behalf, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the same.

Commissioners to make an Award.

LXXII. And be it further enacted, That within the Space of Six Calendar Months after the said Embankment and Drainage shall be completed, the said *John Stephenson*, *Thomas Smith Woolley*, and *Edward Betham* shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, in relation to the Matters of Drainage and Embankment in the said Parish and Township, which shall express the Quantity in Statute Measure of Acres, Roods, and Perches contained in each of the said Places so intended to be embanked and drained, and the Quantity and Contents of each Owner's Property therein, and proper Orders and Directions for and concerning the laying out, making, maintaining, cleansing, and keeping in repair the Ditches, Drains, Dams, Banks, Tunnels, Engines, and other

other necessary Works in, upon, and over or through the Lands so intended to be embanked and drained, and all such Orders, Regulations, and Determinations as are in or by this Act mentioned, declared, required, or authorized to be made and established, and such other Orders and Regulations as shall be necessary or proper, conformable to the Tenor of this Act, together with a Map or Plan thereto annexed, for the more easy, convenient, and effectual Execution thereof, and for preventing all Difficulties and Disputes respecting the Matters herein contained in relation to the said Embankment and Drainage; which Award or Instrument shall be fairly ingrossed or written upon Parchment, and signed and sealed by the Commissioners, and fair Maps or Plans of all the Lands intended to be embanked and drained drawn upon Vellum, to be annexed to the same; and the said Award or Instrument, as also such Award or Instrument as the said Commissioners are authorized to make concerning the said Inclosure and Tithes, under the Authority of the said Act of the Forty-first Year of His late Majesty, shall within the Space of Six Calendar Months after the signing and sealing thereof, together with a Map or Plan thereto annexed, be enrolled with the Clerk of the Peace for the Parts of *Kesteven* in the said County of *Lincoln*, or in one of His Majesty's Courts of Record at *Westminster*, to the end that recourse may be had to the said Award or Awards by any Person or Persons interested in the said Embankment, Drainage, and Inclosure; and the said Award or Awards, with the said Oaths, or a true Copy of the Inrolment thereof, or any Part thereof respectively, certified by the proper Officer, shall be admitted in all Courts whatsoever as legal Evidence, which Copy or Copies the proper Officer for the Time being of the Court where such Inrolment shall be made is hereby directed to make and deliver to any Person or Persons desiring the same, he, she, or they paying for such Copy after the Rate of Four-pence *per* Sheet, reckoning Seventy-two Words to each Sheet; and any Person or Persons shall have Liberty to inspect and peruse the said Inrolment, paying for every such Inspection or Perusal One Shilling and no more; and that all Orders, Directions, Regulations, and Determinations so to be made as aforesaid, shall be binding and conclusive unto and upon all Parties interested therein; and the said original Award or Instrument for the said Inclosure and Drainage, after the same shall be so enrolled as aforesaid, together with a Map or Plan thereto annexed, shall be deposited in a Chest within the Church of *Washingborough* aforesaid, amongst the Records of the said Parish, for the Inspection and Perusal of the Proprietors interested in the said Inclosure and Drainage to which they respectively relate.

For Appointment of Trustees.

LXXIII. And in order that the several Banks, Drains, and other Works necessary for draining and preserving the said Lands or Grounds may be maintained, supported, and kept in repair, be it further enacted, That at such Time, being within Two Years from the passing of this Act, as the said Commissioners shall by Writing under their Hands, to be affixed on the principal Door of the Parish Church aforesaid, declare the said Works of Drainage and Improvement to be completed, they the said Commissioners shall cause public Notice to be given in the said Parish Church of *Washing-*

 borough

borough, on some *Sunday* during or immediately after Divine Service, and in One or more of the Newspapers printed and circulated in the said County of *Lincoln*, that the Proprietors, or their Deputies or Agents, to be appointed in Writing under their Hands, will meet at the Parish of *Washingborough* aforesaid, at the Sign of *The Hunter's Leap*, or some Public House within the said Parish, on some Day to be named therein, at the Expiration of Fourteen Days from the Date of such Notice, then and there to make Choice of Five Trustees, being respectively possessed of Thirty Acres of Land in the said Parish or Township for which such Person shall be chosen, for the further putting this Act into execution; and that it shall be lawful for every Owner or Proprietor, or his or their Deputy or Agent, appointed as aforesaid, and present at such Meeting, to vote in the Choice and Election of such Five Trustees as shall from then and from Time to Time be chosen by a Majority in Value of such Proprietors as aforesaid, (such Value to be ascertained as herein-before is mentioned), and certified in Writing under the Hands of the Persons so electing them in a Book to be kept for that Purpose, shall be and are hereby declared to be Trustees for putting in execution the Powers and Authorities hereby given to and vested in them; and they or any Three or more of them are hereby fully authorized and empowered to make, support, erect, alter, and maintain, or cause to be made, supported, altered, and maintained, all such Cuts, Drains, Banks, Sluices, Tunnels, Bridges, and other Works in, through, and over the said Lands, as they shall think necessary for draining and preserving the same; and that when any of the said Trustees shall die, or refuse to act, or become incapable of acting in the Execution of this Act, it shall and may be lawful for the Majority in Value of the said Proprietors, who shall be assembled together at a Vestry to be convened as aforesaid, upon the like Notice as aforesaid, to choose a Trustee or Trustees, qualified as aforesaid, in the Room and Stead of such Trustee or Trustees so dying, or refusing to act, or becoming incapable of acting, in the same Manner in all respects as Trustees are directed to be chosen in the first Instance; and that such Trustee or Trustees, being so chosen and certified, shall have the like Powers and Authorities whatsoever, to all Intents and Purposes, as the Trustee or Trustees in the Room or Stead of whom he or they shall be chosen would have had by virtue of this Act, if in being and continuing to act in the Execution of the Trusts and Purposes herein-before mentioned.

Trustees to take the following Oath.

LXXIV. And be it further enacted, That no Person shall be capable of acting as a Trustee, (except it be in administering the Oath or Affirmation herein-after mentioned to any of the said Trustees) until he shall have taken the Oath following, (or, being One of the People called *Quakers*, make Affirmation); *viz.*

'I ..... do swear, [*or, being One of the People called Quakers*, do solemnly affirm,] That I will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform all and every the Powers and Authorities in the Execution whereof I shall

'at

'at any Time act as a Trustee appointed in and by an Act made in 'the Eighth Year of the Reign of His present Majesty, intituled '[*here insert the Title of this Act.*] So help me GOD.'

Which Oath or Affirmation it shall and may be lawful to and for any one of the said Trustees to administer, and such Trustee is hereby required to administer the same to the other Trustees.

Annual Taxes.

LXXV. And, for the better and more effectually maintaining, supporting, repairing, cleansing, and using the Engines, Drains, Dams, Banks, and other Works herein-before directed to be made for the Purpose of draining and preserving the said low Lands, be it further enacted, That it shall be lawful for the said Trustees to be respectively appointed in and by the Award of the said Commissioners as herein is directed, and they are hereby respectively authorized and required, from Time to Time, as often as the same shall be requisite and necessary, to meet at some convenient House within the Distance of Eight Miles of the Parish and Township aforesaid, (at all which Meetings their reasonable Expences only shall be allowed them); and the said Trustees to be appointed for such Places respectively shall then and there rate, tax, and assess the Owner and Owners of all and every the Lands and Grounds intended to be drained by virtue of this Act, except the Allotment or Allotments made to the Rector as aforesaid, by such Rate or Tax (to be proportioned as herein-before directed) as shall be necessary to pay and discharge the Expences of maintaining, supporting, and using the said Works for draining and preserving the said Lands, and defraying the Expences of the said Trustees or their Officers as afore-mentioned (which said Rates and Taxes the said Trustees are hereby authorized and required to apply accordingly), and to appoint under their Hands such certain Days and Places for the Payment of such Rates and Taxes to the Collectors or Receivers thereof, as they the said Trustees shall respectively think proper.

Power to distrain for Taxes.

LXXVI. And be it further enacted, That if any Person or Persons rated, taxed, or assessed as aforesaid, shall refuse or neglect to pay the Money so rated, taxed, or assessed on him, her, or them respectively, within Twenty-one Days after the respective Times of Payment, to be appointed as aforesaid, it shall be lawful for any Person or Persons authorized by virtue of a Warrant or Precept under the Hands of the said Trustee or Trustees (which Warrant or Precept such Trustees or Trustee are and is hereby empowered and required from Time to Time to grant, as Occasion shall require), to levy such Sum or Sums of Money so taxed or assessed, and all Arrears thereof, 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) on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking or making such Distress and Sale; or otherwise it shall and may be lawful to and for the said Trustees and Trustee from Time to Time to enter upon the Lands and Grounds so to be drained respectively, belonging to or occupied by such Person or Persons so refusing or neglecting to pay as aforesaid, and the Rents and Profits thereof respectively to receive

receive and take, until thereby or otherwise such Taxes, Rates, or Assessments, and all Arrears thereof, so from Time to Time directed to be paid by such Person or Persons as aforesaid, and all Costs, Charges, and Expences occasioned by or attending such Entries and Receipt of the Rents and Profits of such Premises, shall be fully paid and satisfied; and the Tenant or Tenants of all and singular such Lands and Grounds so to be rated, taxed, or assessed, is and are hereby required and authorized to pay such Sum and Sums so assessed and rated thereon as the same shall become due; and it shall be lawful for such Tenant or Tenants to reimburse him, her, or themselves such Sum and Sums of Money out of the next Rent to become due to his, her, or their Landlord or Landlords respectively, who shall allow the same to be deducted out of his, her, or their Rents accordingly.

Power to appoint Officers.

LXXVII. And be it further enacted, That the said Commissioners, Trustees and Trustee, if only One Trustee for each Place, and if more than One Trustee, then a Majority of Trustees for each Place, at any of their Meetings to be held in pursuance of this Act, or at any other Time or Times, by Writing under their Hands and Seals, shall have full Power and Authority to nominate and appoint One or more proper Person or Persons to be Collector or Collectors, Receiver or Receivers of the respective Taxes and Rates to be assessed and levied by virtue of this Act, and a Clerk or Clerks, or such other necessary Officer or Officers as they shall judge proper for the Management and keeping in Repair of the said Drains, Banks, and other Works of Drainage to be made by virtue of this Act; and to allow and appoint to be paid to such Officer or Officers, out of such Rates and Taxes, such yearly and other Salary or Wages, for their Trouble and Pains in executing such Offices, as the said Commissioners, Trustees and Trustee respectively shall think reasonable; which said Collector or Collectors, Receiver or Receivers, Clerk or Clerks, or other Officer or Officers, shall, before they act in execution of their respective Offices, give such Security for the due Execution thereof as the said Commissioners, Trustees or Trustee respectively, or a Majority thereof, shall require; and all such Collectors, Receivers, Clerks, and other Officers, when thereto required by the said Commissioners, Trustees and Trustee respectively, shall give unto such Commissioners, Trustees and Trustee respectively, a true, exact, and perfect Account in Writing under their respective Hands, with proper Vouchers, for all Monies which shall have been received and paid by them respectively by virtue of their said Offices to the Time of giving in such Account, and shall pay to the said Commissioners, Trustees and Trustee respectively, or such Person or Persons as they shall by Writing under their or his Hands or Hand authorize to receive the same, all such Monies as shall upon balancing the said Account be adjudged by the said Commissioners, Trustees or Trustee respectively, to be due from such Officers, and deliver up the said Vouchers, and all Books and Writings relating to the said Offices, to the said Commissioners and Trustees respectively; and in case any such Collector, Receiver, Clerk, or other Officer shall not give in and make such Account and Payment as aforesaid, or shall refuse or neglect to deliver up such Books and Writings to the said Commis-

Officers to give Security.

sioners and Trustees respectively, or to such other Person or Persons as they shall order and direct to receive the same, then and in either of the said Cases it shall and may be lawful for any One or more Justice or Justices of the Peace for the Parts aforesaid to make Inquiry of such Default in a summary Way; and if such Officer or Officers shall be thereof convicted, either by Confession of the Party or by the Testimony of One or more credible Witness or Witnesses upon Oath, such Justice or Justices shall commit the Parties to the Common Gaol of the said County, to remain for any Time not exceeding Twelve Calendar Months, or until he shall have made a perfect Account and Payment as aforesaid, and deliver up all such Books and Writings in his Custody, or shall have compounded and agreed with the said Commissioners and Trustees respectively, which Composition and Agreement the said Commissioners and Trustees are hereby empowered to make.

Penalty for opening Cloughs, or letting off the Water.

LXXVIII. And be it further enacted, That if any Person or Persons, other than such as are authorized by virtue of this Act, shall at any Time or Times draw or open any of the Cloughs, Sluices, or Doors which shall be made under the Authority of this Act upon or in any of the said Drains, or shall wilfully and maliciously let off the Water of the said Drains, every such Person or Persons shall for every such Offence, on being thereof convicted on the Oath of One or more credible Witness or Witnesses before any One of His Majesty's Justices of the Peace acting for the said Division of *Kesteven* in the said County of *Lincoln*, forfeit and pay any Sum or Sums of Money not exceeding Ten Pounds or less than Two Pounds, to be levied by Distress and Sale of the Goods and Chattels of such Offender, by Warrant under the Hand and Seal of the Justice before whom such Conviction shall be had; which Sum so forfeited shall be employed in and towards carrying on the Works to be done and executed under and in pursuance of this Act; and for want of sufficient Distress such Offender shall by the said Justice be committed to the House of Correction for the said Parts where such Conviction shall take place, for any Term not exceeding Six Calendar Months, unless he shall sooner pay the said Penalty and Costs of Conviction.

Persons destroying Works guilty of Felony.

LXXIX. And be it further enacted, That all and every Person or Persons whomsoever who shall at any Time or Times hereafter wilfully and maliciously cut, break down, or destroy or damage any Bank, Tunnel, Sluice, or any other of the Works which shall be erected and made for the draining and embanking the said Fens, Ings, Meadows, Commons, and inclosed low Lands intended to be embanked and drained, or any Part thereof, and shall thereof be lawfully convicted, shall be guilty of Felony, and shall be subject and liable to the like Pains and Penalties as in Cases of Felony; and the Court by or before whom such Person or Persons shall be tried, shall and hereby have Power and Authority to punish such Felons in like Manner as other Felons are directed to be punished by the Laws and Statutes of this Realm.

Commissioners to lay their Ac-

LXXX. And be it further enacted, That Once at least in each and every Year during the Execution of this Act, (such Year to be

computed from the Day of the passing thereof,) the said Commissioners of Inclosure shall and they are hereby required to make a true and just Statement and Account of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before any Two or more of His Majesty's Justices of the Peace for the Parts of *Kesteven* in the said County of *Lincoln*, to be by them examined and balanced, and such Balance shall be by such Justices stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by the said Justices.

Accounts before Two Justices Once every Year.

LXXXI. And be it further enacted, That all Persons who shall think themselves aggrieved by any thing which shall be done in pursuance of this Act or of the said recited Acts, (except in such Cases where the Orders and Determinations of the said Commissioners, Trustees or Trustee, are herein declared to be final, binding, and conclusive,) may appeal to the Justices of the Peace at some General Quarter Sessions to be held within Four Calendar Months next after the Cause of such Complaint shall have arisen for the Parts or Division aforesaid, the Person or Persons so appealing first giving Fourteen Days Notice thereof in Writing to the Party or Parties appealed against, and entering into a Recognizance, with Two sufficient Sureties, to prosecute such Appeal with Effect, and to pay the Costs which shall be awarded by such Justices to be paid by such Appellants respectively; and the Justices in their said General Quarter Sessions are hereby authorized and required to hear and determine such Appeal, and to give such Costs to either Party as they shall think reasonable, and to make such Order therein as to them shall appear just, which Order shall be final and conclusive to all Parties, and shall not be removed or removable by any Writ of Certiorari into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

Appeal to the Sessions.

LXXXII. And be it further enacted, That if any Action, Suit, or Information shall be commenced or prosecuted against any Person or Persons for any thing done or to be done in pursuance of this Act, or in execution of the Powers and Authorities hereby given, every such Action, Suit, or Information shall be commenced or made within Six Calendar Months next after the Fact committed, and not afterwards, and shall be laid or brought in the County where the Cause of Action shall have arisen and not elsewhere, and the Defendant or Defendants in such Action or Suit shall and may plead the General Issue, Not Guilty; and if in Replevin, may justify and avow by virtue of this Act, as Persons acting by Authority of Commissioners of Sewers are enabled to do, and give this Act and the special Matters in Evidence without specially pleading the same, otherwise than as aforesaid, at any Trial to be had thereupon, and that the Fact alleged to have been done was done in pursuance and by the Authority of this Act; and if the same shall appear to have

Limitation of Actions.

have been so done, or if any Action or Suit shall be brought after the Time before limited for bringing the same, or shall be brought in any other County or Place than as aforesaid; then the Jury shall find for the Defendant or Defendants, Avowant or Avowants; or if the Plaintiff or Plaintiffs shall become Nonsuit, or forbear Prosecution, or discontinue his, her, or their Suit or Suits, or if Judgment shall be given against him, her, or them upon Demurrer or otherwise, then and in any of the said Cases the Defendant or Defendants, Avowant or Avowants, shall recover Treble Costs, for which he, she, or they shall have the like Remedy as where Costs by Law are awarded.

General Saving.

LXXXIII. 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 Politic, Corporate, or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, other than such as are intended to be barred and destroyed by virtue of this Act, all such Right, Title, and Interest as they, every or any of them, could or ought to have had and enjoyed in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

Public Act.

LXXXIV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others, without being specially pleaded.

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