



ANNO QUADRAGESIMO SECUNDO

GEORGI III. REGIS.

Cap. 95.

An Act for dividing, inclosing, draining, and preserving the Open Fields, Half Year's Meadow Land, Common Pastures, Moors, and Waste Lands, within the Parish of *Saxelby*, in the County of *Lincoln*, and Townships of *Harby* and *Broadholm*, in the County of *Nottingham*.

[22d June 1802.]

WHEREAS there are within the Township and Parish of *Saxelby*, in the County of *Lincoln*, divers Open Fields, Half Year's Meadow Land, Commons, and Waste Grounds, containing in the Whole about One thousand two hundred Acres; and in the said Township and Parish, or in the Townships of *Harby* and *Broadholm*, in the County of *Nottingham*, some or One of them, is a Moor called *Saxelby Moor* otherwise *Harby High Moor*, containing One thousand Acres or thereabouts; on which said Moor the Owners and Occupiers of certain ancient Messuages, Houses, Lands, and Toftsteads in the said Townships of *Saxelby*, *Harby*, and *Broadholm*, severally claim to be entitled to and exercise a Right of Common; and in the said Township of *Harby* is a certain Moor or Stinted Pasture called *Harby Low Moor*, and divers Waste Lands, containing together about Two hundred Acres: And whereas *Elizabeth Pocklington* Widow, is Lady of the Manor of *Saxelby*; the most Noble *William Henry Cavendish* Duke of *Portland* is Lord of the Manor of *Harby*; and *Charles Stacey* Gentleman, is Lord of the Manor of *Broadholm* afore said: And whereas the Right Honourable *John* Lord *Monson* is Rector of the Improprate Rectory of *Saxelby* afore said; the Lord Bishop of *Lincoln*, in Right of his See, is Patron of the Vicarage of the same Parish; and the Reverend *Thomas Rees* is Vicar of the said

[Loc. & Per.]

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Parish

Parish and Parish Church; And whereas the Reverend *Edward Mills*, Master of Arts, as Prebendary of the Prebend of *Clifton*, founded in the Cathedral Church of the Blessed Virgin *Mary* of *Lincoln*, is Rector of the Appropriate Rectory, and Patron of the Vicarage of *North Clifton*, in the said County of *Nottingham*; and *Humphry Sibthorpe* Esquire is his Lessee for Lives of the said Appropriate Rectory; and the Reverend *William Farish*, Master of Arts, is Vicar of *North Clifton* aforesaid: And whereas the Reverend *Baptist Proby* Doctor in Divinity, is Owner of the Great Tythes of about Thirty Acres of Land lying in the West Field of *Saxelby* aforesaid; and the said *John Lord Monson*, as Rector of the said Improprate Rectory, is entitled to the Residue of the Great Tythes; and the said *Thomas Rees*, as Vicar as aforesaid, is entitled to all the Vicarial Tythes respectively arising, renewing, or payable within the said Parish of *Saxelby* (including the Township of *Ingoldsby*), or to some Moduses, Compositions, or other Payments in lieu of such Great and Small Tythes respectively, or of some Part or Parts thereof: And whereas the most Honourable Marquis of *Winchester*, as Lessee of the King's most Excellent Majesty, and the said *John Lord Monson*, *Elizabeth Pocklington*, and others, are Owners and Proprietors of the said Open Fields and Half Year's Meadow Land in *Saxelby* aforesaid, whose Properties lie so intermixed and dispersed as in their present State to be incapable of any considerable Improvement; and are also Owners and Proprietors of the inclosed Lands in the said Township of *Ingoldsby*; and it would be of Advantage to all Parties concerned if the said Open Fields and Half Year's Meadow Land in *Saxelby* aforesaid, and the said Moors and Waste Grounds herein-before mentioned, were to be divided and inclosed; and specifick Shares thereof allotted to the several Persons and Parties respectively interested therein; and the same Lands, and also the inclosed Lands in the said Parish of *Saxelby* and Township of *Harby*, were exonerated and discharged of Tythes, and all Moduses, Compositions, and Payments in lieu thereof: Yet the several Matters 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, That *Christopher Morley*, of *Farndon* in the County of *Nottingham*, *Edward Hare*, of *Castor* in the County of *Northampton*, and *Benjamin Codd*, of *Glentworth* in the said County of *Lincoln*, Gentlemen, and their Successors to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, allotting, inclosing, and draining all the said Open Fields, Half Year's Meadow, Commons, and Waste Grounds, and also the said Moors, and for putting this Act into Execution, pursuant to the Powers, Regulations, and Directions herein-after contained, and to such of the Powers, Regulations, Restrictions, and Provisions contained in an Act, passed in the last Session of Parliament, 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*; as are not controuled by or repugnant to any of the Clauses, Provisions, or Regulations contained in this Act; and that the Notices by the said Act required to be given in some publick Newspaper, of setting out publick Carriage Roads, and of reading and executing the Award of the

Commissioners,

Commission-
ers appointed.

Commissioners, shall be given and published in the *Lincoln, Rutland, and Stamford Mercury*, or if that Newspaper shall not then be published, in some other Newspaper published or generally circulated in the said County of *Lincoln*.

H. 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 Act, and to put in force and execute all and every the Powers and Authorities in this Act contained; 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.

Two Commissioners may act.

III. And be it further enacted, That if any of the Commissioners appointed by this Act, or who shall have been elected in Manner hereinafter mentioned, shall, before the Execution of all the Powers and Authorities hereby in them respectively vested, die, decline, or refuse to act, or become incapable of acting, a new Commissioner or Commissioners, in the Room of every such Commissioner or Commissioners so dying, declining, or refusing to act, or becoming incapable of acting, shall be elected in Manner following; (that is to say), if the said *Christopher Morley* shall die, decline, or refuse to act, or become incapable of acting, it shall be lawful for the said *Elizabeth Pocklington*, and *William Henry Cavendish Duke of Portland*, or the Lords of the said respective Manors of *Saxelby* and *Harby* for the Time being, or their respective known Agents or Attornies, by Writing under their respective Hands, to appoint a Commissioner, not interested in the said Division and Inclosure, in the Room of the said *Christopher Morley*, and so from Time to Time as often as any Commissioner so to be appointed as last aforesaid shall die, decline, or refuse to act, or become incapable of acting; and that in case the said *Edward Hare* shall die, decline, or refuse to act, or become incapable of acting, it shall be lawful for the said *John Lord Monson* and his Heirs, the said Prebendary and his Lessee for the Time being, the said *Baptist Proby*, and the said *Thomas Rees* and *William Farish*, and their respective Successors, Vicars as aforesaid, or the major Part of them in Value, their known Agents or Attornies, by Writing under their respective Hands, to appoint a Commissioner not interested in the said Division and Inclosure, in the Room of the said *Edward Hare*, and so from Time to Time as often as any Commissioner so to be appointed as last aforesaid shall die, decline, or refuse to act, or become incapable of acting; and that in case the said *Benjamin Codd* shall die, decline, or refuse to act, or become incapable of acting, it shall be lawful for the Majority in Value of the Proprietors and Persons interested in the Lands and Grounds directed by this Act to be inclosed, or their known Agents or Attornies (except the Lords of the respective Manors of *Saxelby* and *Harby* aforesaid for the Time being, the said *John Lord Monson*, the said Prebendary and his Lessee for the Time being, the said *Baptist Proby*, and the Vicars of *Saxelby* and *Clifton*, and their respective Successors), who shall be present at a publick Meeting to be held for this Purpose in the Parish of *Saxelby* aforesaid, in pursuance of a Notice to be given in the said Church, and in the Chapel of *Harby* aforesaid, by Writing to be affixed upon the outer Doors of the same Church and Chapel, at least Fourteen Days before such Meeting, by Writing under their Hands to appoint a Commissioner not interested in the said Division and Inclosure, in the Room

How new Commissioner may be appointed.

Room of the said *Benjamin Codd*, and so from Time to Time as often as any Commissioner so to be appointed by the said Proprietors shall die, decline, or refuse to act, or become incapable of acting; and in case the said respective Parties, or any of them, shall make Default in appointing any such new Commissioner within Two Calendar Months after the Death of any Commissioner, or his declining or refusing to act, or becoming incapable of acting, shall be known, then the surviving or remaining Commissioners or Commissioner shall, and they and he are and is hereby required from Time to Time, by Writing under their or his Hands or Hand, within One Calendar Month after the Expiration of the said Two Calendar Months allowed to the respective Parties for appointing such new Commissioner or Commissioners as aforesaid, to appoint a Commissioner, not interested in the said Division and Inclosure, in the Room of every Commissioner dying, declining, or refusing to act, or becoming incapable of acting as aforesaid; and every Commissioner to be appointed as aforesaid, shall have the like Power and Authority as the Commissioner in whose Place he shall be appointed was vested with by virtue of this Act; and that in the mean Time 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 Act of the last Session of Parliament made final and conclusive, only excepted).

Commissioners and Surveyor's Allowance.

IV. And be it further enacted, That out of the Money that shall arise for defraying the Expences of obtaining and executing this Act, there shall be paid to each of the said Commissioners acting in the Execution thereof, as a Recompence for his Pains and Trouble, the Sum of Two Guineas for each and every Day he shall be employed in travelling to, returning from, and attending in the Execution of this Act, and no more; and at all Meetings to be held in pursuance of this Act the said Commissioners shall, out of such Allowance, defray their own Expences; and that there shall be paid to the Surveyor or Surveyors 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 said Commissioners shall adjudge to be a full Recompence and Satisfaction for all his Expences and Charges whatsoever in attending the said Commissioners, and in surveying and admeasuring the said Lands and Grounds, and in planning and staking out the several Allotments intended to be made, and in making such Maps and Plans as may be required respectively by virtue of this Act.

Survey to be made.

V. And be it further enacted, That such Survey and Admeasurement shall be made of the said Open Fields, Half Years Meadow Land, Commons, Moors, and Waste Grounds, intended to be divided and inclosed, and also of the ancient inclosed Lands and Grounds within the said Townships of *Saxelby*, *Ingoldsby*, *Harby*, and *Broadholm*, by *John Humphries*, of *Ripon* in the County of *York*, Land Surveyor, or in case of his Death, Neglect, or Refusal to act, or becoming incapable of acting, then by such Person or Persons as the said Commissioners shall appoint.

VI. And

VI. And be it further enacted, That the said Commissioners shall cause Notice to be given in the Church of *Saxelby* and in the Chapel of *Harby* aforefaid, on some *Sunday* immediately after Divine Service, or otherwise in Writing to be affixed upon the principal outer Doors of the said Church and Chapel, of the Time and Place of their First and every other Meeting for the Execution of this Act, at least Seven Days before any such Meeting shall be held, (Meetings by Adjournment only excepted); and that the said Commissioners shall and may adjourn any such Meeting from Time to Time, as they shall see Occasion, for the further Execution of this Act; and in case Two 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 Twenty-one Days from the Day of Adjournment, at the same or any other Place; and the Commissioner making such Adjournment is hereby required to give Notice thereof to the absent Commissioners.

Commissioners to give Notice of their Meetings.

VII. And be it further enacted, That, in order to shorten the Boundary Fences or Drains between the said several Townships of *Saxelby*, *Ingoldsbj*, *Harby*, and *Broadholm*, or any of them, or between any of the said Townships and any adjoining Parish or Place, it shall and may be lawful to and for the said Commissioners, with the Consent in Writing under the Hand of the Lord of the Manor, and the Hands of the major Part in Value of the Land Owners in any Parish or Place interested in any Common or Waste Grounds adjoining to any of the said Townships, and also under the Hand or Hands of the Owner or Owners of any Lands upon which such Fence or Drain intended to be made shall adjoin, to set out, ascertain, and determine the Boundary Fences to be made between the said Commons and Waste Grounds, and the other Lands adjoining to the Lands and Grounds in any of the said Townships before mentioned, in such Manner as they shall judge proper for the Purposes aforefaid; and after such Boundary Fences or Drains shall be set out, ascertained, and determined as aforefaid, the same shall be fenced or made by such Person or Persons, in such Manner, and at such Time or Times, as the said Commissioners shall order and direct in and by their Award, and shall for ever thereafter be deemed and taken to be the Boundaries between such of the said Townships and such adjoining Parish or Place; any Law, Usage, or Custom to the contrary notwithstanding.

Commissioners may alter Boundary Fences.

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors of, or Persons interested or claiming to be interested in any of the Lands or other Hereditaments intended to be divided and inclosed by this Act, it shall be lawful for the said Commissioners to hear, adjudge, and determine such Difference, both as to the Person or Persons to whom the Allotment shall be made, and as to the Specification of the Lands or Hereditaments about which the Difference shall arise, and what the Allotment in lieu of such Lands or Hereditaments should be.

Commissioners to determine Differences.

IX. Provided, and it is hereby enacted, That in case the Party or Parties making any Claim in pursuance of this Act, or the Person or Persons objecting thereto, shall be dissatisfied with the Determination of the Commissioners,

Power to try disputed Claims at Law.

missioners, and shall, by Writing under his or their Hand or Hands, or the Hand or Hands of his, her, or their known Agent respectively, signify the same to the said Commissioners, or any of them, within Two Calendar Months next after any such Determination shall be made, in such Case, but not otherwise, it shall be lawful for the Person or Persons so dissatisfied with such Determination to have the Subject of such Claim or Objection, in respect of which such Determination shall be made, tried at Law, by an Action to be brought by him or them against any Person or Persons in whose Favour any Determination shall have been so made, upon a feigned Issue, to be settled by the proper Officer of the Court where such Action shall be brought in case the Parties differ about the same, such Action to be brought within Three Calendar Months next after any such Determination shall have been made; and the Defendant or Defendants in such Action shall, and is and are hereby required to appear to such Action, accept a Declaration, and plead to Issue; and the Plaintiff or Plaintiffs shall thereupon proceed in such Action so as to have the same tried and determined at the First or Second Assizes to be holden for the County in which the Premises in Question shall be situate, next after the Commencement of such Action, and the Verdict of the Jury on such Trial, if the same shall be satisfactory to the Court, shall be binding, final, and conclusive upon all the Parties interested therein; and that after such Trial the said Commissioners shall and they are hereby required to act in Conformity to the Verdict or Verdicts thereupon given, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that all such Determinations of the said Commissioners as shall not be objected to by such Notice to be given to the said Commissioners, or any One of them as aforesaid, or being so objected to, and the dissatisfied Parties respectively not causing such Action at Law to be brought and proceeded in as aforesaid, shall be absolutely binding, final, and conclusive.

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

Directing an Issue at Law to try disputed Claims.

X. And be it further enacted, That in all Cases where any Lands, Tenements, or Hereditaments, situate in the said Parish of *Saxelby* or Township of *Harby*, are claimed to be held discharged of Tythes, or subject only to some Modus, Composition, or Customary Payment in lieu thereof, it shall be lawful for the said *John Lord Monson*, his Heirs and Assigns, the said Prebendary of *Clifton*, or his Lessee for the Time being, and the said Vicars of *Saxelby* and *Clifton*, and their respective Successors respectively interested therein or affected thereby, at any Time within Two Calendar Months next after such Claims shall be published as directed by the said Act of the Forty-first Year of His present Majesty, to give Notice in Writing under his or their Hand or Hands to the said Commissioners, or any Two of them, and also to the respective Persons signing such Claims, of his or their Intention to have the same determined by an Action at Law, upon a feigned Issue, and shall proceed to try such his or their Right to the Tythes of the said Lands, so claimed to be held discharged therefrom, or subject to a Modus, Compensation, or Customary Payment in lieu thereof, at the First, or at the latest at the Second Assizes to be holden for the County in which such Lands are respectively situated, next after the Publication of such Claims as aforesaid, and to abide the Event of the Judgement which shall be given upon such Trial or Trials, and to pay such Costs to the Defendant or Defendants as shall be adjudged to him or them by the Court

Court in which such Action or Actions shall be commenced; and the Person and Persons by or on whose Behalf such Claims as last aforesaid shall be delivered to the said Commissioners, shall forthwith appear, and become Defendant or Defendants in such Action or Actions, and shall give Notice thereof to the said Plaintiff or Plaintiffs, who shall accordingly proceed to a Trial at Law within the Time aforesaid; and the Issue or Issues to be taken in such Action or Actions shall be settled by the proper Officer or Officers of the Court wherein such Action or Actions shall be commenced, in case the Parties shall differ about the same; and the Costs of such Action or Actions shall abide the Event thereof, and Judgement shall and may be entered accordingly as aforesaid, and the same shall be final and conclusive against all Persons whomsoever; and such Action or Actions shall not abate by the Death of the Plaintiff or Plaintiffs, or of any or all the said Defendants therein, but shall survive as to the Party or Parties so dying against his, her, or their Heirs or Devisees respectively; and if upon the Trial of such Action or Actions a Verdict shall be given for the Plaintiff or Plaintiffs therein against any One or more of the said Defendants, the said Commissioners, as to the Lands, Tenements, or Hereditaments of such Defendant or Defendants, in respect whereof such Verdict shall pass, shall proceed to set out such Compensation in lieu of the Tythes of the said Lands, Tenements, and Hereditaments, after the several Proportions herein directed with regard to other Lands subject and liable to the Payment of Tythes in Kind; and if upon the Trial of such Action or Actions a Verdict shall be given for any One or more of the Defendants therein, the said Commissioners in respect of the Lands, Tenements, or Hereditaments of the said last mentioned Defendant or Defendants, discharged of Tythes, or subject only to a Modus, Composition, or Customary Payment in lieu thereof, shall proceed to set out and allot such Compensation for the Tythes of the same Lands as in their Judgement shall be equal in Value to the Modus, Composition, or Customary Payment payable for the same respectively, should the same not be found to be held wholly discharged of Tythes as aforesaid: Provided always, that it shall be lawful for the Court in which any such Action shall be depending, upon sufficient Cause shewn, to put off the Trial of such Action, or to award a new Trial therein, although the Time therein-before limited for the Trial of such Action may be thereby exceeded.

XI. 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 or make deeper any of the ancient Drains and Sewers already made, in, over, or through any of the Lands or Grounds intended to be divided and inclosed, or in, over, or through any of the inclosed Lands in the said Parish of *Saxelby* and Townships of *Harby* and *Broadholm*, or any of them; and to enlarge, raise, widen, or otherwise to alter and improve any of the Cloughs, Arches, Banks, Bridges, or other Works already made therein; 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 the said Commissioners shall think most effectual 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, or other Works which shall appear needful, in, through, and upon any Part or Parts of the said Parish of *Saxelby*

Saxelby and Townships of *Harby* and *Broadholm*, or upon the said Moor called *Saxelby Moor* or *Harby High Moor*, or any of them, so that the same be not made in, over, upon, or through any Lands or Grounds not being Part of the Lands hereby intended to be divided and inclosed, without the Consent of the Owner or Proprietor thereof, his or her Heirs or Assigns, in Writing first had and obtained for that Purpose; and also to make or cause to be made such Tunnels under any Ways or Roads within the said Parish, Townships, or Moor, or any of them, 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 mean Time 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, and also to make such Rates and Assessments to be paid by the Owners and Proprietors of any of the Lands and Grounds intended to be divided and inclosed, in such Sums as the said Commissioners shall think most just and equitable, and to make such Recompence and Satisfaction to any Person or Persons in whose Lands or Grounds, not being Part of the Lands and Grounds hereby directed to be inclosed, 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 the Value of the Ground 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 by 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 between such of the 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 at *Kirton* for the Parts of *Lindsey* in the said County of *Lincoln*, if such Damages shall arise or happen in the said Parish of *Saxelby*, or elsewhere in the said Parts of *Lindsey*, and 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 said County of *Nottingham*, if such Damages shall arise or happen in either of the said Townships of *Harby* or *Broadholm*, or elsewhere in the said County of *Nottingham*, 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 Forty Shillings, 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 Sheriff of the said County of *Lincoln* or *Nottingham* (according

ording to the Circumstances) 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 (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 Judgement of the Justices thereupon, shall be final 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 or County aforesaid, and finally determine the same at any of the said Sessions, and give Costs to either Party as they shall think reasonable.

XII. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed to extend, to authorize and empower the said Commissioners, or any Person or Persons to whom any of the Lands and Grounds hereby directed to be divided and inclosed shall be allotted by virtue of this Act, to interfere, alter, or meddle with the Navigation of the River *Fosdyke*, or any of the Banks, Towing Paths, Roads, Bridges, or other Works made or to be made for the keeping, maintaining, and preserving the said Navigation; or to make any new Work, or to divert any of the Drains, Streams, or Waters, which supply the said Navigation; or do any Act that may obstruct or injure the said Navigation, or in anywise affect the good State and Condition thereof; nor shall any Thing herein contained extend or be construed to extend to invalidate, lessen, alter, or take away any of the Rights, Powers, and Authorities of the Owner or Owners, Lessee or Lessees of the said Navigation, but that the same Rights, Powers, and Authorities shall be and continue as fully to all Intents and Purposes, as if this Act had never been made, any Thing herein contained to the contrary thereof in anywise notwithstanding; so as that the said Commissioners are not prevented or restrained from altering or enlarging any of the present Outfalls for the Waters discharged from the Lands and Grounds hereby intended to be divided, inclosed, or drained into the said River *Fosdyke*, if the same shall be deemed necessary or expedient; or from causing Fences to be erected across the Towing Path on the Banks of the said River subject to the Owner or Owners of such Fences for the Time being making and maintaining good and sufficient Gates therein, so that the Right of towing or haling Vessels along the said Banks may not be impeded, or the said Navigation be anyways injured or obstructed.

Navigation of the River *Fosdyke* not to be altered.

XIII. Provided, and it is hereby enacted, That the Costs, Charges, and Expences of draining the Lands and Grounds intended to be drained by virtue and under the Authority of this Act, and of maintaining such Works of Drainage, shall be borne, paid, and defrayed by the Owners and Proprietors of such of the Lands and Grounds intended to be divided and inclosed, as are or shall be declared to be situated in the Parish or Township in which the Lands so to be drained are respectively situated, other than and except so far only as respects the Drainage of the said

Charges of Drainage apportioned.

[*Loc. & Per.*]

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Parochial

Parochial or General Allotments on *Saxelby Moor* or *Harby High Moor*, the Drainage whereof shall and may be effected, and the Works of Drainage in, through, or over the same, maintained and supported by such Means, and under such Regulations, as to the said Commissioners shall seem just and expedient, under the Power hereby in them vested, without Regard to the Apportionment of the Costs and Charges attending the same between the respective Townships interested therein, farther or otherwise than that the Owners and Proprietors of Lands and Hereditaments in each of the said Townships shall respectively contribute thereto, in Proportion to the Benefit and Advantage their respective Parochial or General Allotments on such Moor will respectively receive therefrom.

Allotments
for Watering
Places, Gra-
vel, etc

XIV. And be it further enacted, That the said Commissioners shall, in the next Place, set out and allot unto the Surveyors of the Highways in *Saxelby*, *Harby*, and *Broadholm* aforesaid respectively, such Parts of the Lands and Grounds hereby directed to be divided and allotted as the said Commissioners shall think necessary, not exceeding Five Acres in the Whole, as and for publick Sand, Gravel, Clay, and Stone Pits; and the same Allotments when 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 Townships respectively interested therein, 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 or appoint.

General Di-
vision of *Sax-
elby Moor*.

XV. 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 publick and private Roads, and Allotments for repairing the same, shall be set out under or by virtue of the said Act of the Forty-first Year of His present Majesty, or of this Act, in the next Place to ascertain the Rights and Interests of the several Persons and Parties interested in the Division and Inclosure of the Moor called *Saxelby Moor* or *Harby High Moor*, and set out the same in Three Parochial or General Allotments in Manner following; (that is to say), One of the said Parochial or General Allotments in respect of the Right and Interest of the said *Elizabeth Pocklington*, as Lady of the said Manor of *Saxelby*, in the Soil of the said Moor, and of the Rights and Interests of the several Owners and Proprietors of Commonable Messuages, Houses, Toftsteads, Lands, and Hereditaments in the said Township of *Saxelby*; One other of the said Parochial or General Allotments in respect of the Right and Interest of the said *William Henry Cavendish Duke of Portland*, as Lord of the said Manor of *Harby*, in the Soil of the same Moor, and of the Rights and Interests of the several Owners and Proprietors of Commonable Messuages, Houses, Toftsteads, Lands, and Hereditaments in the said Township of *Harby*; and the other of the said Parochial or General Allotments in respect of the Right and Interest of the said *Charles Stacey*, as Lord of the said Manor of *Broadholm*, in the Soil of the said Moor, and of the Rights and Interests of the several Owners and Proprietors of Commonable Messuages, Houses, Toftsteads, Lands, and Hereditaments, in the said Township of *Broadholm*; such respective Parochial or General Allotments to be severally ascertained and adjusted by such Ways and Means, and in such Manner, as to the said Commissioners shall seem just and

and expedient; and which said several Parochial or General Allotments shall, from and after the setting out of the same, be deemed and taken for all Purposes whatsoever to be situate in the Parish or Township in which the said Rights and Interests in and upon the same Moor are situate, in respect whereof such Allotments shall be respectively set out and allotted as herein directed.

XVI. And be it further enacted, That the said Commissioners shall have full Power and Authority, and they are hereby required in the next Place to set out and allot unto and for the said *John Lord Monson* and *Baptist Proby*, and the said *Thomas Rees* and his Successors, Vicars of *Saxelby* aforesaid, such Parts of the said Lands and Grounds intended to be divided and inclosed, situate in *Saxelby* aforesaid, or on the said Parochial or General Allotment hereby declared to be situate in *Saxelby* aforesaid, as shall in the Judgement of the said Commissioners be equal in Value to, and a full Compensation for the present uninclosed Glebe Lands belonging to them respectively in the said Open Fields and Meadows in *Saxelby* aforesaid, and for the Rights of Common to which they are respectively entitled in respect of the said Impropriation and Vicarage of *Saxelby* in the Lands and Grounds by this Act directed to be divided and inclosed; and shall in like Manner set out and allot unto and for the said Prebendary, and the said *Humphry Sibthorpe* his Lessee, and to the said *William Farish* and his Successors, Vicars of *North Clifton* aforesaid, such Parts of the said Lands and Grounds intended to be divided and inclosed, situate in *Harby* aforesaid, or in the said Parochial or General Allotment herein declared to be situate within the said Township of *Harby*, as shall in the Judgement of the said Commissioners be equal in Value to and a full Compensation for their several Rights of Common, as Impropriator, Lessee, and Vicar as aforesaid, in the said Lands and Grounds directed to be divided and inclosed.

Allotments
for Glebe and
Common
Rights to
Rectors and
Vicars.

XVII. 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 *John Lord Monson*, *Baptist Proby*, and the said *Thomas Rees* and his Successors, Vicars of the said Parish of *Saxelby*, so much of the said Open Fields, Half Year's Meadow Land, Commons, and Waste Grounds, in the said Parish and Township of *Saxelby*, intended by this Act to be divided and inclosed, and of the said Parochial or General Allotment on *Saxelby Moor* herein declared to be situate in the same Township, as in the Judgement of the said Commissioners shall be equal in Value to One Fifth Part of all the Open Fields and of the inclosed Arable Lands in the said Parish of *Saxelby*, One Eighth Part of all the Open Meadow Lands, and of so much of the Inclosures within the same Parish, as upon an Average of Seven Years last past (to be computed from the passing of this Act), have been used in Meadow in each Year, and of One Ninth Part of all other Lands and Grounds within the said Parish of *Saxelby*, both open and inclosed, that are subject or liable to the Payment of Tythes in Kind, and also such farther Part or Parts of the same Lands so intended to be divided and inclosed, as shall in the Judgement of the said Commissioners be an adequate Compensation for the Moduses, Compositions, or other Payments in lieu of Tythes for such Lands or Grounds in the said Parish as are respectively subject thereto and not liable to the Payment of Tythes in Kind, (if any), which are declared

Tythe Allot-
ments in
Saxelby.

clared to be in lieu of and as a full Satisfaction and Compensation for all Tythes, both Great and Small, and all Moduses, Compositions, or other Payments in lieu of Tythes, arising or renewing out of or from all and every the Clofes, Inclosures, Woods, Wood Ground, Open Fields, Meadows, Pastures, Commons, Moors, Wastes, and other Lands and Grounds whatsoever, in the said Townships of *Saxelby* and *Ingoldby*, or any Part or Parts of them or either of them, or out of or from the said Parochial or General Allotment herein declared to be situate in the said Township of *Saxelby*; and shall apportion, divide, and allot the Lands so set out unto and amongst the said *John Lord Monson* and *Baptist Proby*, and their Heirs, and the said *Thomas Rees* and his Successors, Vicars as aforesaid, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be a just Compensation, Equivalent, and Satisfaction for their respective Shares, Rights, and Interests of and in the Tythes, Moduses, Compositions, or other Dues and Payments as aforesaid (Mortuaries, *Easter Offerings*, and Surplice Fees excepted).

Ty the Allotment in *Harby*.

XVIII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot unto and for the said Prebendary of *North Clifton*, and *Humphry Sibthorpe* his Lessee, and the said *William Farish* and his Successors, Vicars of *North Clifton* aforesaid, so much of the said Low Moor and Waste Lands in the said Township of *Harby*, intended by this Act to be divided and inclosed, and of the said Parochial or General Allotment herein declared to be situate in the said Township of *Harby*, as in the Judgement of the said Commissioners shall be equal in Value to One Fifth Part of all the Arable Lands, One Eighth Part of such of the Lands within the same Township as upon an Average of Seven Years last past (to be computed from the passing of this Act), have been used in Meadow in each Year, and of One Ninth Part of all the other Lands and Grounds within the said Township of *Harby*, both open and inclosed, respectively subject or liable to the Payment of Tythes in Kind, and also such farther Part of the same Lands so intended to be divided and inclosed, as shall in the Judgement of the said Commissioners be an adequate Compensation for the Moduses, Compositions, or other Payments in lieu of Tythes, for such Lands or Grounds in the said Township as are subject thereto, and not liable to the Payment of Tythes in Kind, in lieu of and as a full Satisfaction and Compensation for all Tythes, both Great and Small, and all Moduses, Compositions, or other Payments in lieu of Tythes, arising, renewing, or payable within the said Township of *Harby*, or from the said Parochial or General Allotment herein declared to be situate within the said Township; and shall appoint, divide, and allot the Lands so set out unto and between the said Prebendary and the said *Humphry Sibthorpe* his Lessee, and the said *William Farish* and his Successors, Vicars as aforesaid, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be a just Compensation, Equivalent, and Satisfaction for their respective Shares, Rights, and Interests of and in the Tythes, Moduses, Compositions, or other Dues and Payments as aforesaid (Mortuaries, *Easter Offerings*, and Surplice Fees excepted).

Owners of old Inclosures who have not sufficient Open

XIX. Provided always, and be it further enacted, That in case the Owners of any Messuages, Cottages, Homesteads, Gardens, Orchards,
or

or inclosed Lands and Grounds, intended to be exonerated from Tythes or any Payments in lieu of Tythes, shall not be entitled, upon the aforesaid Division, to a sufficient Quantity of the Lands and Grounds hereby directed to be divided and allotted, to exonerate his or their old Inclosures from such Tythes or Payments in lieu of Tythes as aforesaid, then and in such Case the said Commissioners shall and they are hereby authorized and empowered to charge the respective Owners thereof with such Sum and Sums of Money as shall in the Judgement of the said Commissioners be a just and full Compensation and Satisfaction for the Fee Simple of the Tythes thereof respectively; and such Sum and Sums of Money shall be paid to the said Commissioners, and be by them applied towards defraying the Expences of obtaining this Act, and carrying the same into Execution; and in case of Non-payment thereof at the Time appointed for that Purpose, shall be raised and levied in such Manner as is provided for raising and levying the Expences of obtaining and executing this Act.

Field Land to exonerate them from Tythes, are to discharge them by a Money Payment.

XX. Provided always, and be it further enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Owners or Proprietors of Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds in the Parish of *Saxelby* and Hamlet of *Harby* aforesaid, not having a sufficient Quantity of the Lands and Grounds hereby directed to be divided and allotted to exonerate his, her, or their old Inclosures from Tythes, being under Coverture, Minors, Lunaticks, beyond the Seas, or under any other Disability, or for any of the Owners or Proprietors, being Tenants in Tail, or for Life or Lives, or Years determinable on a Life or Lives or on any other Contingency, or otherwise interested as aforesaid, to charge such Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, with such Sum or Sums of Money as the said Commissioners shall by their Award, or any other Writing under their Hands previous thereto, declare to have been paid for the Exoneration of the Tythes thereof, not exceeding in any Case Five Pounds an Acre for every Acre of Land exonerated from Tythes as aforesaid, and their respective Shares of the Charges and Expences incident to and attending the obtaining this Act, and carrying the same into Execution; and to grant, mortgage, surrender, lease, or demise, or otherwise subject such Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, unto such Person or Persons who shall advance and lend such Sum and Sums of Money respectively, his, her or their Executors, Administrators, and Assigns, for any Term or Number of Years; or in case any Person in Possession who shall or may be liable to and charged with a Sum or Sums of Money as aforesaid, shall choose to advance, pay, or discharge the same, that it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals, to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, demise, or otherwise subject the said Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, to such Person or Persons respectively paying and discharging the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sums of Money as aforesaid, with Interest for the same, to commence on the Termination of his, her, or their Right in the Premises, so that

Tenants for Life, etc. of old Inclosures having no Open Field Land empowered to charge their Estates with Money paid for exonerating from Tythes.

every such Grant, Mortgage, Surrender, Lease, or Demise, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when such Sum and Sums of Money thereby to be secured shall have been fully paid and satisfied; and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming entitled to any such Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and that every such Grant, Mortgage, Surrender, Lease, or Demise, shall be good, valid, and effectual in the Law for the Purposes thereby intended: Provided always, that in case there shall be any Surplus of the Money lastly herein directed to be paid to the said Commissioners, after defraying the Charges and Expences herein provided for, such Surplus shall be applied in the Manner directed by the said Act of the Forty-first Year of the present Reign, with respect to the Money paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or the Timber growing thereon.

Allotments for
Manerial
Rights in *Sax-*
elby, Harby,
and *Broadholm.*

XXI. 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 *Elizabeth Pocklington*, as Lady of the Manor of *Saxelby* aforesaid, One Twentieth Part of the then Residue of the said Parochial or General Allotment herein declared to be situate within the said Township of *Saxelby*, and of all other Waste and unknown Lands in the same Township; and shall also set out and allot to the said *William Henry Cavendish* Duke of *Portland*, as Lord of the Manor of *Harby* aforesaid, so much and such Part of the said Parochial or General Allotment herein declared to be situate in the said Township of *Harby*, as in the Judgement of the said Commissioners shall be equal in Value to One Twentieth Part of the then Residue of the same Allotment, and of all the Wastes and unknown Lands in the Township of *Harby* aforesaid, intended to be divided and inclosed; and shall likewise set out and allot to the said *Charles Stacey*, as Lord of the Manor of *Broadholm* aforesaid, so much and such Part of the Parochial or General Allotment herein declared to be situate in the said Township of *Broadholm*, as in the Judgement of the said Commissioners shall be equal in Value to One Twentieth Part of the same Allotment, in Lieu, Bar, and Satisfaction of and for the Manerial Rights respectively belonging to them or any of them in the Lands and Grounds intended to be divided and inclosed; provided that if the Whole or a greater Share or Proportion of the said *Saxelby Moor* or *Harby High Moor* shall be within any of the said Manors of *Saxelby, Harby, or Broadholm*, than shall be equal to the Extent of the Rights and Interests of the Owners and Proprietors of the Commonable Messuages, Toststeads, Lands, and Hereditaments, within any such Manors or Manor in and upon the said Moor, that then and in such Case the said Commissioners shall and they are hereby required to apportion the Allotments herein directed to be set out in lieu and Compensation of Manerial Rights in respect of the same Moor, unto and amongst the Lady and Lords of the said Manors of *Saxelby, Harby, and Broadholm*, in Proportion and according to the Extent of Land within their respective Royalties.

XXII. And

XXII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot all the Residue of the said Parochial or General Allotments, and of all other the Lands and Grounds directed by this Act 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 lieu and full Satisfaction of and for such their said several Shares, Rights, and Interests, to be ascertained and adjusted by such Ways and Means, and in such Manner, as to the said 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.

Allotment of
the Residue.

XXIII. And be it further enacted, That the several Allotments, Partitions, Divisions, Orders, and Directions, to be made by the Commissioners in pursuance of this Act, shall be and are hereby declared to be binding, final, and conclusive upon all and every of the Parties interested, as well in the Lands and Grounds hereby directed to be divided and inclosed, as in any other Lands, Tenements, or Hereditaments, which by virtue of this Act shall be allotted, exchanged, divided, or exonerated from Tythes.

Allotments to
be binding.

XXIV. And be it further enacted, That the several Allotments to be made by virtue of this Act to the said *John Lord Monson, Baptist Proby*, the said Prebendary and his Lessee for the Time being, and the said *Thomas Rees* and *William Farish*, and their respective Successors, for or in respect of Glebe Lands, Common Rights, and Tythes respectively, 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 Quicksets, (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 a good and substantial Gate fixed in each Allotment; and the Expences of all the said Fences and Gates shall be paid, borne, and defrayed by the Proprietors of all and every the Allotments to be made by virtue of this Act, and of the ancient Inclosures exonerated of Tythes, situate in the Parish or Townships in which the Allotments so to be set out and allotted shall respectively be situated, (except the said Lord *Monson* and *Baptist Proby*, the said Prebendary and his Lessee for the Time being, and the said *Thomas Rees* and *William Farish*, and their respective Successors, in respect of their several Allotments for Glebe, Common Rights, and Tythes as aforesaid), in Proportion to the Value of such their Allotments and ancient Inclosures, to be settled, adjusted, and determined by the said Commissioners.

Tythe Allot-
ments to be
fenced.

XXV. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend, or be construed or adjudged to extend, to revoke, make void, annul, or alter any Settlement, Deed, Will, or Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent, Debt, Charge, or Incumbrance what-

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

soever, in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments hereby directed to be divided and allotted, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act respectively, but as well the Lands allotted as the Tenements or other Hereditaments which shall be assigned in Exchange or in Compensation for any other Estate or Right, shall, immediately after such Allotment, Exchange, or Assignment shall be made, be vested, remain, and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Tenures, Rents, Services, and Incumbrances, as the several Lands, Tenements, and Hereditaments, in respect whereof such Allotments, Assignments, and Exchanges shall have been made, should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted, assigned, or exchanged, and this Act had not been made; save and except such Rents and Services as shall have been compensated for and extinguished, and such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act; and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act, or of the said Act of the Forty-first Year of His present Majesty's Reign.

Leases at Rack Rent to be void.

The Lessors making Satisfaction.

Where Lands in this and in other Parishes are held by the same Rent, Commissioner to apportion such Rent.

XXVI. Provided also, and be it further enacted, That all Leases, Agreements, and Tenancies at Rack Rent now subsisting of any Part or Parts of the Lands and Grounds hereby directed to be divided and inclosed, or which shall be exchanged in pursuance of this Act, and all Messuages, Cottages, Lands, and Tenements, situate in the Parishes or Townships aforesaid, held therewith, shall cease and be void at such Time or Times as the said Commissioners shall by Writing under their Hands direct or appoint; so as the respective Lessors or Landlords of such Messuages, Lands, or Tenements, do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants for the Loss which shall be sustained by the Determination of such Leases respectively, as shall be mutually settled and agreed between them; or as the Commissioners, being thereto required by either of the Parties, shall ascertain and direct; and the said Commissioners, being so required, are empowered and directed to appoint a reasonable and proportional Part, according to the Season of the Year, of the Rent reserved on any such Lease or Agreement, for and in respect of the Time which shall have elapsed between the last Day on which any Payment of the Rent shall have become due, and the Determination of any such Lease or Agreement, and such Part of the Rent shall be recoverable by such Ways and Means as may by Law be used for the Recovery of Rent in Arrear; and the said Commissioners are hereby empowered and directed, in every Case where any Land or other Hereditaments in the said Parishes or Townships shall be held by virtue of any such Lease or Agreement, together with Land or other Hereditaments in any other Parish or Place, Parishes or Places, by One entire Rent, to apportion and determine what Part of such Rent shall be deducted in respect of the Land or other Hereditaments

ments in the said Parishes or Townships aforesaid, in such Lease or Agreement comprised, and from what Time such Deduction shall take place; and the rest of the Rent reserved on any such Lease or Agreement shall, during the Remainder of the Term thereof, be the Rent of and for the Lands and Hereditaments in such other Parish or Parishes, Place or Places, and shall be payable and recoverable in like Manner as the entire Rent reserved by such Lease or Agreement shall, immediately before such Apportionment, be payable and recoverable; provided that nothing herein contained shall extend to determine or affect any Lease or Agreement of exchanged Lands situate in any other Parish or Place than the Parishes and Townships aforesaid.

XXVII. And be it further enacted, That it shall be lawful for any Person who shall be entitled to any Allotment to be made by virtue of this Act, to mortgage, sell, demise, and dispose of all his or her Estate, Right, Title, or Interest therein, at any Time before the Execution of the said Award, and on a proper Conveyance, Mortgage, Lease, Assurance, or other Disposition being executed or passed, every such Assurance or Disposition shall be good, valid, and effectual in the Law; and also that it shall and may be lawful for any Person or Persons interested in the said Allotments, at any Time to mortgage, sell, demise, and dispose of all such Estate, Right, Title, Interest, and Property, which he, she, or they shall then have in or to the said Commons and Waste Grounds, separate from such Estate in Right of which he, she, or they shall be so entitled; and it shall be lawful for the said Commissioners, and they are hereby authorized and required, upon the Conveyance or other Instrument by which such Sale or Disposition is confirmed being produced to them, and the Execution thereof being proved to their Satisfaction, to allot the same to the Purchaser or Purchasers thereof respectively.

Proprietors may sell their Allotments before the Execution of the Award, and their Rights of Common separate from their other Property.

XXVIII. And be it further enacted, That, from and after the passing of this Act, until the Execution of the Award of the said Commissioners, all the Open Fields hereby directed to be divided and allotted shall be subject and liable to such Directions and Regulations as the said Commissioners shall from Time to Time, by Writing under their Hands, appoint, as well with regard to the stocking, as the ploughing, folding, tilling, sowing, and laying down the same; and it shall and may be lawful to and for the said Commissioners to order and direct such Sum and Sums of Money in respect thereof to be paid by any Person or Persons interested in the said Open Fields, his, her, or their Tenant or Tenants, as they the said Commissioners shall think reasonable; and in case any Person or Persons who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, may be raised and levied.

Course of Husbandry over the Open Fields.

XXIX. And be it further enacted, That the Owners of the said Open Lands and Grounds hereby directed to be divided and inclosed, and also the Owners of the ancient inclosed Lands intended to be discharged of

Expences of the Act to be paid.

[Loc. & Per.]

18 R

Tythes

Tythes as aforesaid, or otherwise interested in the said Inclosure and Drainage, shall pay his, her, or their Share of all the Charges and Expences preparatory to or in obtaining and passing of this Act, and of surveying and valuing the said ancient inclosed Lands, and settling the Compensation for the Tythes thereof, and surveying, valuing, dividing, and allotting the said Lands and Grounds hereby directed to be divided and inclosed, and of setting out, forming, and making the publick Bridle Roads, private Roads and Ways, Banks, Bridges, Drains, Cloughs, and Watercourses, and of inclosing the Allotments hereby directed to be made to the said Lord *Monson* and *Baptist Proby*, the said Prebendary and his Lessee for the Time being, and the said *Thomas Rees* and *William Farish*, and their respective Successors, in lieu of Tythes, Glebe, and Common Rights, and of preparing and inrolling the Award of the said Commissioners, and all other reasonable Expences and Charges of the said Commissioners and Surveyor, and other proper and necessary Expences in the Execution of this Act, and of the said Act of the Forty-first Year of His present Majesty, from Time to Time as the same shall respectively accrue, to such Person and Persons, and in such Proportions, and in such Manner, and at such Time or Times, either before or after the Execution of the said Award, as the said Commissioners shall direct or appoint (the said Lord *Monson* and *Baptist Proby*, the said Prebendary and his Lessee for the Time being, and the said *Thomas Rees* and *William Farish*, and their respective Successors, in respect of their Allotments for Tythes, Glebe, and Common Rights, only excepted): Provided, that if a renewed Lease shall not be granted to the said Marquis of *Winchester*, of the Lands he now holds as Lessee as aforesaid, on the Termination of the existing Lease, that then and in such Case the said Charges and Expences in respect of such Lands shall be wholly paid and borne by the next succeeding Lessee or Lessees, Grantee or Grantees of the same Lands; and that the said Marquis of *Winchester*, and such next succeeding Lessee or Lessees, Grantee or Grantees, shall be rated and assessed to the Payment, if any, in Exoneration of the said Lands from Tythes, or any Modus or Composition in lieu thereof, in such Shares and Proportions as in the Judgement of the said Commissioners shall be just and equitable, according to their respective Interests in such Lands.

Auditor of the
Commissioners
Accounts.

XXX. And be it further enacted, That *William Hutton*, of *Gate Burton* in the said County of *Lincoln*, Barrister at Law, shall be and he is hereby appointed Auditor of the said Commissioners Accounts; and in case of his Death or Refusal to act, then some other fit and proper Person, not interested in the Premises, shall be appointed Auditor for that Purpose, in like Manner as is herein-before provided for the Appointment of a new Commissioner in the Place of the said *Benjamin Codd*, and so from Time to Time as often as Occasion shall require; in which Appointment of Auditor the Lords of the said respective Manors of *Saxelby* and *Harby*, the said Lord *Monson* and *Baptist Proby*, as Impropiators as aforesaid, the said Prebendary and his Lessee for the Time being, and the said Vicars and their respective Successors, shall also be entitled to vote; and the Account of the said Commissioners for the Time being, containing a true Statement of all Sums by them received and expended, or due to them for their own Trouble or Expences, shall at least Once in every Year, from the passing of this Act, until such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined by

by the said Auditor for the Time being, and the Balance by him stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or be valid in Law, unless the same shall be duly allowed by the said Auditor.

XXXI. 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 any other Person or Persons on his, her, or their Behalf, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the same.

Money advanced by Proprietors to be repaid with Interest.

XXXII. And be it further enacted, That the Award to be made by the said Commissioners, when inrolled in Manner directed by the said Act, made in the Forty-first Year of the Reign of His present Majesty, shall be deposited in the Parish Church of *Saxelby* aforesaid.

Award to be deposited.

XXXIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this Act (other than and except such Orders and Determinations of the said Commissioners as are herein directed to be final, binding, or conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein-before mentioned), then and in every such Case he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the Parts of *Lindsey*, in the said County of *Lincoln*, or for the said County of *Nottingham*, if the Cause of Complaint shall arise in that County, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners, or any One of them, and to the Party or Parties concerned Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof, and the Justices (not interested in the Premises), in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any), to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Persons aggrieved may appeal to the next Quarter Sessions.

XXXIV. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, his, her, and their

General Saving.

Heirs,

Heirs, Successors, Executors, and Administrators (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under them or in Remainder after them), all such Right, Title, and Interest, as they, every, or any of them could or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

Publick Act.

XXXV. And be it further enacted, That this Act shall be deemed a publick Act, and be judicially taken Notice of as such by all Judges, Justices, and other Persons, without the same being specially pleaded.

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