

Vicar thereof, and as such is entitled to all Manner of Tythes, both Great and Small, arising, growing, renewing, and increasing, within the said Parish of *Horncastle*, and to certain Glebe Lands and Hereditaments within the same, and also to a Right of Common on the said Fields and other Commonable Places in respect of such Vicarage: And whereas the said Lord Bishop of *Carlisle*, and the said Sir *Joseph Banks* as his Lessee, Dame *Jane Trafford*, the Honourable *Lewis Dymoke*, *Edward Harrison* Doctor of Medicine, *Richard Clitherow*, *James Conington*, Gentlemen; *Francis Richardson*, *William Bell*, *Daniel Allenby*, *Thomas Hawling*, *William Barton*, *Daniel Boyers*, and divers other Persons, are Owners and Proprietors of the said Open Fields, Meadows, Pastures, and other Commonable and Waste Lands, and of the ancient inclosed Lands, Messuages, Cottages, and Homesteads, within the said Parish, and are respectively entitled to Rights of Common and other Interests therein, in different Proportions: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure; and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas the Lands and Grounds belonging to the said several Proprietors in the said Open Fields, Meadows, and Pastures, lie intermixed and dispersed in small Parcels, and are, together with the said Commons and Waste Lands, in their present State incapable of much Improvement, and it would be of great Advantage to the several Proprietors thereof and Persons interested therein, if the said Open Fields, Meadows, Pastures, and other Commonable and Waste Lands, were divided, and specifick Parts thereof allotted to the several Persons interested therein, in Proportion to their respective Property, Rights of Common, and other Rights and Interests, and such Allotments inclosed, and Compensation made for the Tythes thereof, and of the said ancient inclosed Lands and Homesteads within the said Parish, in Manner herein-after mentioned; but the same 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 *Richard Smith* of *Sixhills*, in the County of *Lincoln*, *Anthony Bower* of the City of *Lincoln*, and *John Bonner*, of *Langton* near *Horncastle*, in the same County, Gentlemen, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, and allotting the said Open Fields, Meadows, Pastures, Commonable and Waste Lands, and also such Part or Parts of a certain Common called *Wildmore Fen*, as by virtue of an Act, passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for dividing and allotting a certain Fen called Wildmore Fen, in the County of Lincoln*, shall be set out or allotted to or for the Owners and Proprietors of Messuages and Lands within the said Parish of *Horncastle*, and for carrying this Act into Execution, subject to such of the Rules, Orders, and Directions mentioned and contained in the said recited Act, as are not hereby altered or varied, and also subject to the several Rules, Orders, and Directions herein-after mentioned and contained.

Commissioners appointed.

II. And

II. And be it further enacted, That the said Commissioners and each of them shall, out of the Monies to be raised by virtue of this Act for defraying the Expences of obtaining and executing the same, be paid as a Recompence for his Time and Trouble the Sum of Two Pounds and Two Shillings, and no more, for each Day he shall be employed in travelling to, returning from, and attending in the Execution of this Act; and that at all Meetings to be held in pursuance of this Act, the said Commissioners shall, out of such Allowance, defray the Whole of their own Expences.

Allowance to Commissioners.

III. And be it further enacted, That wherever in this Act Power is given to the said Commissioners to do any Act, Matter, or Thing, or make any Orders, Rules, or Regulations whatsoever, such Power shall be considered as vested in them or any Two of them, and the said Commissioners may adjourn from Time to Time; and if Two Commissioners shall not appear at any Meeting to be held in pursuance of this Act, then and in such Case any One of the said Commissioners then present (or in case of no Commissioner then the Clerk or Solicitor) may adjourn such Meeting to a future Day, not exceeding Fourteen Days from the Day of Adjournment, and shall give Notice thereof to the absent Commissioners; any Thing herein contained to the contrary notwithstanding.

All Powers vested in Two Commissioners.

IV. And be it further enacted, That if the said *Richard Smith*, or any Commissioner to be appointed in his Stead as herein-after mentioned, shall die, refuse, neglect, or be disabled to act, then and in every such Case it shall be lawful to and for the said *Clement Madeley*, or his Successors, within Two Calendar Months after such Death, Refusal, Neglect, or Disability, shall be signified in Writing to him or them by the surviving or remaining Commissioners, or either of them, and which he or they is or are hereby required to do as soon as may be after such Death, Refusal, Neglect, or Disability, is known to him or them, to elect and appoint a new Commissioner, not interested in the said intended Division and Inclosure, in the Stead of such Commissioner so dying, refusing, neglecting, or becoming disabled to act; and if the said *Anthony Bower*, or any Commissioner to be appointed in his Stead as herein-after mentioned, shall die, refuse, neglect, or be disabled to act, then and in every such Case it shall be lawful for the said *Sir Joseph Banks*, his Heirs or Assigns, with the Consent of the Lord Bishop of *Carlisle* for the Time being, within Two Calendar Months after such Death, Refusal, Neglect, or Disability, shall be signified in Writing to him or them by the surviving or remaining Commissioners, or either of them, and which he or they is or are hereby required to do so soon as may be after such Death, Refusal, Neglect, or Disability, is known to him or them, to elect a new Commissioner, not interested in the said intended Division and Inclosure, in the Stead of such Commissioner so dying, refusing, neglecting, or becoming disabled to act; and if the said *John Bonner*, or any Commissioner to be appointed in his Stead as herein mentioned, shall die, refuse, neglect, or be disabled to act, then and in every such Case it shall be lawful for the major Part in Value (to be ascertained by the Land Tax Assessment) of the Proprietors of or Persons interested in the said Open Fields, Meadows, Pastures, Commonable and Waste Lands, so directed to be divided and inclosed as aforesaid, except the said *Clement Madeley*
and

New Commissioners to be appointed on Vacancies.

and his Successors, and the said Sir *Joseph Banks*, his Heirs and Assigns), who shall be present at a Meeting to be appointed and held at *Horncastle* afore said, within Two Calendar Months after such Death, Refusal, Neglect, or Disability, shall be signified to them or any of them in Writing by the surviving or remaining Commissioners, or either of them, and which he or they is or are hereby required to do as soon as may be after such Death, Refusal, Neglect, or Disability, is known to him or them, to elect and appoint a new Commissioner, not interested in the said intended Division and Inclosure, in the Stead of such Commissioner so dying, refusing, neglecting, or becoming disabled to act, of which Meeting Notice shall be affixed upon One of the most publick outer Doors of the Parish Church of *Horncastle* afore said, upon some *Sunday*, at least Ten Days before such Meeting; and every such Election and Appointment shall be reduced into Writing, and signed by the Person or Persons making the same, and shall be delivered to the surviving or remaining Commissioners or Commissioner; and in case the said respective Parties, or any of them, shall make Default in appointing such new Commissioner, within Two Calendar Months after such Death, Refusal, Neglect, or Disability, shall happen and be known, and signified to them respectively as afore said, that then the remaining or surviving Commissioners or Commissioner shall, and they and he are and is hereby required from Time to Time, by Writing under their Hands or his Hand, within Fourteen Days after the Expiration of the said Two Calendar Months, allowed to the respective Parties for naming such new Commissioner or Commissioners, to appoint One other Commissioner, not interested in the said intended Division and Inclosure, in the Place of such Commissioner so dying, refusing, neglecting to act, or becoming incapacitated; and every such new Commissioner so to be appointed in any of the Cases afore said, shall have the like Powers and Authorities for putting this Act into Execution in all Respects whatever, as the Commissioner in whose Place he shall have been so appointed and chosen, was vested with by virtue of this Act.

Commissioners to give Notice of Meetings.

V. And be it further enacted, That the said Commissioners shall cause Notice to be given in the Parish Church of *Horncastle* afore said, upon some *Sunday* immediately after Divine Service, or by Writing under their Hands to be affixed on One of the most publick outer Doors of the said Church, or by Advertisement to be inserted in the *Stamford Mercury*, of the Time and Place of their First and every subsequent Meeting for the Execution of this Act, Seven Days at least before any such Meeting shall be holden, (Meetings by Adjournment only excepted); and that all such Meetings shall be held at *Horncastle* afore said.

Other Notices how to be given.

VI. Provided always, 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 Advertisement in the said Newspaper.

Surveyor appointed.

VII. And be it further enacted, That *Thomas Gee* of *Little Houghton*, in the County of *York*, Land Surveyor, shall be and he is hereby appointed Surveyor to act in the Execution of this Act; but in case of his Death, Incapacity, neglecting, or declining to act, then the said Commissioners shall and may appoint any other Person they may think proper.

VIII. And

VIII. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division and Inclosure, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any other Matter or Thing relating to the said intended Division and Inclosure, it shall be lawful for the said Commissioners, and they are hereby authorized to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, or Hereditaments whatsoever.

Commissioners to settle Disputes.

IX. And be it further enacted, That in case the said Commissioners shall, upon the Hearing or 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 thereby disallowed or over-ruled; and in case the Person or Persons 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) on Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to assess Costs.

X. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure, shall be dissatisfied with the Determination of the said Commissioners, touching or concerning any Rights or Interests in, over, or upon the Lands and Grounds within the said Parish of *Horncastle*, or any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Lincoln*; and for that Purpose the Person or Persons, Bodies Politick or Corporate, who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Bodies Politick or Corporate, in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination of the said Commissioners; 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 give Common Bail, and accept One or more Issue or Issues, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about

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

the same; and the Verdict or Verdicts which shall be given in such Action shall be final, binding, and conclusive, upon all and every Person and Persons whomsoever, Body or Bodies Corporate or Collegiate, 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 Court to do, as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required, to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners, touching such Claim or Claims of Right to the Soil of the said Commons and Waste Grounds, or other Rights or Interests in, over, or upon the Lands and Grounds within the said Parish of *Horncastle*, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action or Actions at Law to be brought, and proceeded in as aforesaid, shall be final, binding, and conclusive, upon all Parties.

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

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

Commissioners to direct the Course of Husbandry.

XII. And be it further enacted, That the said Commissioners shall, as soon after the passing of this Act as conveniently may be, by some Writing or Writings under their Hands, to be published as herein-before is directed with respect to Notice of Meetings, order and direct the Course of Husbandry that shall be used in, over, and upon the Lands and Grounds intended by this Act to be divided and inclosed, until the Time when they shall have made and completed the said intended Division and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, and tilling thereof, as to the stocking and eating the Fallows or Stubbles, and also to the cutting of Thorns or Bushes, or doing any Injury unto or upon the Lands intended by this Act to be divided and inclosed, until the same shall be divided and allotted; and by the same or any other Writing or Writings under their Hands, to be published as aforesaid, shall and may make such Rules, Orders, and Regulations, touching the Conduct of the Farmers, Tenants, and other Persons within the Parish of *Horncastle* aforesaid, for preventing them from committing Waste or Destruction upon any of the said Lands and Grounds in the said Parish, in the mean Time and until the Allotments and Division thereof shall be effected, as to them shall seem expedient; all which Rules, Orders, and Regulations, of the said Commissioners, shall be binding and conclusive upon all Parties interested, their Farmers, Tenants, and others.

Satisfaction to be made for standing Crops.

XIII. And be it further enacted, That the said Commissioners shall, by some Writing or Writings under their Hands, ascertain, order, and appoint, what Recompence and Satisfaction in Money shall be made to the Owner or Owners of any Crops growing at the Time when the said intended Division and Inclosure shall be made, for the said Crops, by the Persons to whom the Lands on which such Crops are growing shall be allotted,

allotted, unless such Owner or Owners shall elect and think fit to reap and take away the same; and in case of Non-payment of such Recompence and Satisfaction in Money for such Crops, at the Time and in Manner to be appointed for that Purpose by the said Commissioners, or in case of such Election to reap and take away the same, then and in either of the said Cases it shall be lawful for such Owner and Owners of such Crops, and his or their Servants or Agents, to enter into and upon the Lands and Grounds whereon such Crops shall be growing, and to cut, reap, and carry away the said Crops, and to dispose thereof to his, her, and their own Use and Uses; and also that the said Commissioners shall, by some Writing or Writings under their Hands, ascertain, order; and appoint, what Recompence and Satisfaction shall be paid, and to whom, for the Standage of Crops, by such Owner or Owners taking away the same as aforesaid; and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants, Occupier or Occupiers, of Lands within the said Parish, as well for ploughing, tilling, and manuring, of any Lands which shall be allotted to some other Person or Persons, for the Profit and Advantage which any such Person or Persons, to whom the said Lands shall be allotted, will obtain thereby; as for any Loss or Disadvantage, which any such Tenant or Tenants, Occupier or Occupiers, will sustain by Means of the said Division and Inclosure; and if in either of the said Cases last mentioned, such Recompence and Satisfaction shall not be made at the Time and in the Manner to be appointed by the said Commissioners, then the said Commissioners shall and may, by Warrant or Warrants under their Hands, directed to any Person or Persons whomsoever (which Warrant or Warrants they are hereby directed and empowered to grant accordingly) cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons required to make such Recompence and Satisfaction as aforesaid, together with the Costs and Charges of such Distress and Sale, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels.

XIV. Provided always, and be it enacted, That no old Green Swarth, Ground, Parcel of the Lands and Grounds intended to be inclosed by Authority of this Act, and which hath not been ploughed or used in Tillage for the Space of Seven Years last past before the passing of this Act, shall be ploughed or converted into Tillage after passing the same, until the making of such Division and Allotment thereof, and Notice given to enter upon such Allotments.

Against
ploughing
old Swarth.

XV. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and required, before any other Allotment is made in pursuance of this Act, to set out and appoint such Parcel or Parcels of Land not exceeding Five Acres in the Whole, in and upon the said Lands and Grounds hereby intended to be divided and inclosed, and in such convenient Place or Places as they shall think proper, to be used for the Purpose of getting Stone, Gravel, or other Materials for the Repairs of the Roads and Ways within the said Parish of *Horncastle*, and such Parcel or Parcels of Land shall be and are hereby vested in the Surveyor or Surveyors of the Highways of the said Parish of *Horncastle* for the Time being, and their Successors, upon Trust for the Purposes in this or the said recited Act mentioned.

Allotment
for Repairs
of Roads.

XVI. And

Commissioners to make Drains.

XVI. And be it further enacted, That the said Commissioners shall and may scour out, widen, and enlarge, all such ancient Brooks, Ditches, Drains, Watercourses, Tunnels, and Bridges, in the said Parish of *Horncastle*, and also shall and may set out and appoint such new Ditches, Drains, Watercourses, and build and erect such publick and private Bridges, Banks, Sluices, Staunches, Gowts, Sewers, Cloughs, Gates, Stiles, Tunnels, and other Requisites, as well in, through, and over the Lands and Grounds hereby intended to be divided and allotted, as also in, over, and through any ancient Inclosures within the said Parish of *Horncastle*, making such Satisfaction to the Proprietors of such ancient Inclosures for the Damage done thereby, as they shall think reasonable (and of such Depth and Breadth, and in such Directions, as the said Commissioners shall think proper); and the said Commissioners shall and may, and they are hereby directed and required, in and by their Award, to order and determine by whom and at whose Expence, and at what Time and in what Manner, the said Ditches, Drains, Watercourses, publick and private Bridges, Banks, Sluices, Staunches, Gowts, Sewers, Cloughs, Gates, Stiles, Tunnels, and other Requisites, ought by ancient Custom, or for other just Reason, to be made and afterwards cleaned, scoured, repaired, maintained, and kept in Repair.

Power to turn or abate old Roads.

XVII. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized, with the Concurrence and Order of Two Justices of the Peace, not interested in the Repair of such Roads, acting in and for the Division of *Lindsey* in the County of *Lincoln*, to turn, abate, or exchange, any old publick or private Road or Way, Fence, Gate, or Stile, in, through, over, or upon any of the Lands and Grounds within the said Parish of *Horncastle*, which they shall or may think requisite to be turned, abated, or exchanged, for the Convenience of the said Parish and Owners of the Estates therein, and shall value and ascertain what Recompence shall be made to any Person or Persons to be affected thereby; and such Order shall be subject to an Appeal to the Quarter Sessions, in like Manner, and under the same Forms and Restrictions, as if the same had been originally made by such Justices; and that it shall not be lawful for any Person afterwards, either on Foot, or with Horses, Cattle, or Carriages, to use or claim the Use of any old Road or Way within the said Parish, which shall have been turned, abated, or exchanged, as aforesaid, by virtue of this Act: Provided always, that nothing herein contained shall authorize the said Commissioners to divert or turn any Turnpike Road leading through or over the said Lands or Grounds.

Allotment to the Vicar for Glebe.

XVIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, in the next Place, to set out and allot unto and for the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid, such Parcel of the Lands and Grounds hereby intended to be divided and inclosed, as shall, in the Judgement of the said Commissioners, be a full Equivalent and Compensation for the uninclosed Glebe Lands and Right of Common belonging to the said Vicarage.

Allotment for the

XIX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, in the next Place, to set out,

out, allot, and award, unto the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid (over, above, and exclusive of the Lands and Grounds directed to be allotted to him and them as aforesaid, in lieu of his Glebe Lands and Right of Common), such Plots, Pieces, or Parcels of the said Open Fields, Meadows, Pastures, and other Commonable and Waste Lands, hereby intended to be divided and inclosed, as shall, in the Judgement of the said Commissioners, be equal in Value to the several Proportions of the Residue of the Lands and Grounds within or belonging to the Parish of *Horncastle* aforesaid, next herein-after described (except such Part or Parts of the same as shall be claimed to be held discharged from Tythe to the aforesaid Vicarage, and proved to be so held to the Satisfaction of the said Commissioners); that is to say, to One-fifth Part of the Open Arable Lands, or usually deemed such (except such as have laid Lea or Grass for more than Six Years); to One-seventh Part of the annual Meadow Land in the Ings; to One-eighth Part of all the ancient inclosed Lands, Open Cow Pastures, and Lea Land; and to One-ninth Part of the Common Piece or Parcel of Land, to be allotted in *Wildmore Fen* for the Use of the Proprietors and Occupiers of Houses and Lands in the said Parish of *Horncastle*, and of all other Commonable and Waste Lands within the said Parish, which said Allotments shall be in lieu of, and in full Recompence and Compensation for the uninclosed Glebe Lands and Right of Common, and for all Tythes, both Great and Small, and all Moduses and other Dues and Payments whatsoever, in lieu of Tythes belonging to the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid, arising, growing, renewing, or payable, within, upon, or for any of the Lands, Grounds, and Homesteads, within the said Parish of *Horncastle* (except the usual and accustomed Surplice Fees, *Easter Offerings*, and Mortuaries), all which said Tythes, and all other Ecclesiastical Dues and Payments whatsoever, within the said Parish of *Horncastle* (except as aforesaid), after such Allotments in lieu thereof shall be made, staked out, and Notice given as herein-after directed, shall cease, determine, and be forever extinguished.

XX. And be it further enacted, That in case there are any Homesteads, Gardens, or other inclosed Lands, in the said Parish of *Horncastle*, subject or liable to the Payment of Tythes, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient Allotment to make Compensation for the Tythes payable thereout, such Proprietors shall respectively pay or cause to be paid unto the said *Clement Madely* and his Successors, Vicars as aforesaid for the Time being, such annual Sum or Sums of Money as the said Commissioners shall adjudge to be equal in Value to One-eighth Part of such Homesteads, Gardens, or other inclosed Lands, subject to such Variations from Time to Time, for ascertaining the Rent according to the Price of Corn, as are provided for by an Act, passed in the Forty-second Year of the Reign of His present Majesty, intituled, *An Act for altering, amending, and rendering more effectual an Act, passed in the last Session of Parliament, intituled, 'An Act for dividing and allotting a certain Fen called Wildmore Fen, in the County of Lincoln;'* and for dividing, allotting in Severalty, and inclosing the Parochial or General Allotments set out or to be set out in pursuance of the said Act, for compensating for the Tythes of such Allotments; and for declaring and determining to what Parish or Parishes the

A Money Payment to be made for the Tythes of the old Inclosures in certain Cases.

[Loc. & Per.]

11 K

several

several Allotments of the said Fen shall belong; and the said Commissioners are hereby authorized and required, in and by their Award to be made in pursuance of this Act, to particularize and set forth such Homesteads, Gardens, or other inclosed Lands, and the several Sums of Money to be paid out of the same respectively, subject to such Variations as aforesaid, in lieu of the Tythes thereof, and at what Time or Times such Payments in lieu of Tythes shall commence, and the Tythes in lieu of which such Payments shall be made are to cease and determine; and in case any Proprietor of such Homesteads, Gardens, or other inclosed Lands, shall, after the Execution of the said Commissioners Award, refuse or neglect to pay the several annual Sums of Money which shall be so awarded and directed to be paid in lieu of Tythes as aforesaid, as the same shall become due, it shall be lawful to and for the said *Clement Madely* and his Successors, Vicars as aforesaid, to recover the same by Distress, upon the Premises out of which such Payment ought to be made, or upon any other Lands of such Proprietor within the said County of *Lincoln* (in like Manner as Landlords are by Law entitled to recover Rents in Arrear), together with the Costs and Charges attending such Distress and Sale of the Goods taken by such Distress.

Allotment for
Soil.

XXI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, in the next Place, to set out and allot unto and for the said Lord Bishop of *Carlisle*, and the said Sir *Joseph Banks* as his Lessee, as Lord of the Manor of *Horncastle* aforesaid, such Parcel or Parcels of the Lands and Grounds hereby directed to be divided and inclosed, as shall, in the Judgement of the said Commissioners, be equal in Value to One-twentieth Part of all the Commons and Waste Lands within the said Manor (except the Common Piece or Parcel of Land, to be allotted in *Wildmore Fen* for the Use of the Proprietors and Occupiers of Houses and Lands in the said Parish of *Horncastle*, for which Compensation for Soil is provided for by the said Act, passed for dividing the said Fen into Parochial Allotments) in lieu of all and every his the said Lord Bishop's Rights and Interests whatsoever, in or to the Soil of the said Commons and Waste Lands, and which shall be accepted and taken by him accordingly, subject nevertheless to the Appropriation of a competent Part thereof, for the Purpose of holding the several publick Fairs and Markets for Cattle, which have been usually held or may hereafter be held, or legally established, at or within the Parish of *Horncastle* aforesaid.

Encroach-
ments within
30 Years to
be deemed
Part of the
Wastes.

XXII. And be it further enacted, That all Encroachments which at any Time within Thirty Years before the passing of this Act, have been made upon the Waste Grounds hereby intended to be divided, allotted, and inclosed, or for which any Quit Rent or Acknowledgement hath been usually paid to the Lord of the said Manor of *Horncastle* or to his Lessee, shall be deemed Part thereof, and allotted accordingly to the said Lord Bishop of *Carlisle*, and the said Sir *Joseph Banks* as his Lessee, in Part Satisfaction of his Right and Interest in or to the Soil of the said Commons and Waste Lands, without considering the Value of any Erections thereon or Improvements made thereto; and in case any Dispute or Difference shall arise touching any such Encroachments, or the Extent thereof, such Dispute shall be settled and determined by the said Commissioners.

XXIII. And

XXIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, after setting out the public Roads and the Allotments before directed to be set out for Materials for the Highways, Glebe Tythes, and Soil, to apportion, divide, set out, and allot, the Residue and Remainder of the Lands and Grounds intended to be divided and inclosed in pursuance of this Act, unto and amongst the several Persons who at the Time of making such Division and Inclosure shall be entitled to Houses, Lands, Property, or Right of Common, in or upon the same, in Proportion and according to their respective Shares, Rights, Property, and Interests therein, and in lieu of and full Satisfaction for the same, 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 Remainder.

XXIV. Provided nevertheless, and be it further enacted, That no Owner or Proprietor of any House or Toststead shall be deemed or considered as entitled to any Right of Common or other Right whatsoever, on the Lands and Grounds hereby intended to be divided and inclosed; who were not allowed and determined to have Right of Common or other Right in the said Fen, called *Wildmore Fen*, on the Division thereof, and which are not or shall not be set forth in the Award of the Commissioners made or to be made in pursuance of an Act, passed in the Forty-first Year of the Reign of His present Majesty, for dividing and allotting the said Fen, called *Wildmore Fen*.

No Person to be allowed any Right of Common disallowed by the Special Commissioners.

XXV. And be it further enacted, That all such Lands and Grounds as shall, by Authority and in pursuance of this Act, be allotted to any of the Proprietors, shall be held by such Proprietors respectively under the same Tenures, Rents, Customs, and Services, as the Lands or other Property in respect of which such Allotments shall be made, were respectively held and enjoyed by the said Proprietors before the passing of this Act, or would have been held and enjoyed in case this Act had not been made; and the several Lands and Grounds, which in the said Award shall be distinguished to have been allotted in lieu of Freehold Lands or other Property, shall, from the making and executing thereof, be deemed Freehold Lands, and shall from thenceforth be held of the Lord of the Fee under the same Rents and by the same Services, as the Freehold Lands or other Property in lieu of which they were so allotted, were before that Time held; and the Lands and Grounds, which shall be therein distinguished to have been allotted in lieu of Leasehold Lands or other Leasehold Property, shall be in like Manner deemed Leasehold, and shall be held under the same Rents as the Lands or other Property in lieu whereof they were so respectively allotted, were held; and the Reversion thereof shall be vested in the same Lessors respectively, as the Reversion of such other Lands and Property was vested before the making of this Act; any Law, Custom, or Usage to the contrary notwithstanding.

Lands allotted or exchanged to be of the same Tenure as the Lands in respect of which they are allotted or exchanged.

XXVI. And whereas several of the Messuages, Farms, Lands, and Premises of the Proprietors within the said Parish of *Horncastle*, are subject and liable to the Payment of divers Quit Rents, Fee Farm Rents, or other annual Payments, to the others of the said Proprietors, and it would

Allotments to be made for Quit Rents.

would be advantageous to all the Parties to have Lands allotted in lieu thereof; be it therefore further enacted, That it shall be lawful for the said Commissioners, at the Request in Writing of the respective Parties paying or receiving any such Quit Rents, Fee Farm Rents, or other Payments, and they are hereby authorized and required to set out, allot, and appoint, unto and for each of the said several Proprietors, who at the Time of making such Division and Inclosure shall be entitled to any such Quit Rent or Quit Rents, or other annual Payments, such Quantity or Quantities of Land, out of the Property of each respective Proprietor liable to pay such Quit Rent or Quit Rents, or other annual Payments, who shall so request to be exonerated therefrom, lying within the said Lands and Grounds hereby intended to be divided and inclosed, as the said Commissioners shall, in their Judgement and Discretion, think a reasonable Recompence and Satisfaction for each respective Quit Rent or other annual Payment; and that after such Allotments shall be made, the said several Quit Rents or other annual Payments shall cease, determine, and be for ever extinguished.

Power to
fence across
Freeboards.

XXVII. And whereas it may happen that some of the Proprietors of Lands and Grounds in some of the old inclosed Lordships adjoining the said Parish of *Horncastle*, at the Time of inclosing the same, left out a Freeboard, Screed, or Parcel of Land, on the Outside of their Fences, which may now lie open to the Lands and Grounds by this Act directed to be divided and inclosed, and that the Owners thereof may refuse to exchange the same; be it therefore further enacted, That it shall and may be lawful to and for any of the Proprietors in *Horncastle* aforesaid, who shall have any Allotment or Allotments set out by virtue of this Act, adjoining to any such Freeboard, Screed, or Parcel of Land, to make any Fence or Fences over the same, to join their respective Fences to the old Fence now made in any such adjoining Lordship, until the Proprietor or Proprietors of any such Freeboard, Screed, or Parcel of Land, shall think proper to remove his Fence to the Outside thereof; and when and so soon as the same shall be removed, to take away such Fences so by him, her, or them, made or set down as aforesaid, to and for his, her, and their own Use.

For fencing
Glebe and
Tythe Allot-
ments.

XXVIII. And be it further enacted, That the several Allotments to be made to the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid, in lieu of his and their Glebe Lands, Right of Common, and Tythes, shall be fenced on all such Parts and Sides thereof, as shall not be ordered by the said Commissioners to be made by any other Proprietor, or are not made and maintained by some other Parish or Person at the Time of making such Allotment or Allotments, and against all publick Roads, with good and substantial Fences, which Fences shall be planted with good thriving Quicksets of Whitethorns, guarded on both Sides with good Posts and Three Rails high, the Posts to be of Oak, and the Rails to be of Oak, Ash, or some other durable Wood, and sufficient Ditches, with good and substantial Carriage Gates in the said Fences where necessary; and the said Fences shall be so made, and the Gates made and hung in such Time, and by such Person or Persons, as the said Commissioners shall appoint to make and hang the same, at the Expence of the rest of the Proprietors of the Lands and Grounds to be allotted by virtue of this Act, in such Proportions, and to be paid at
such

such Time or Times, as the said Commissioners, by any Writing under their Hands or by their said Award, shall order, direct, or appoint; and that all such Fences and Gates so to be made as aforesaid, shall for ever thereafter be maintained and kept in Repair by the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid.

XXIX. And be it further enacted, That until the Division and Allotments shall be made and finished in pursuance of this Act, the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid, shall be entitled to and shall receive and enjoy such and the same Tythes as he or they could, might, or ought to have done, in case this Act had not been made.

Tythes to be payable until Allotments are made.

XXX. And be it further enacted, That the several Parcels of Land and Allotments which shall be set out and allotted by virtue of this Act (except such Allotments as shall be made to the said *Clement Madely*, and his Successors, Vicars of *Horncastle* aforesaid, for his and their Glebe Lands, Rights of Common, and Tythes as aforesaid) shall be inclosed and fenced, and such Fences at all Times for ever after the making thereof be supported, maintained, and kept in Repair, by such Person or Persons, and in such Manner, as the said Commissioners, by any Writing or Writings under their Hands or by their Award, shall order, direct, or appoint.

For inclosing and fencing the rest of Proprietors Allotments.

XXXI. Provided nevertheless, and be it enacted, That such convenient Gaps and Openings shall be left in the said Fences and Inclosures, and for such Time as the said Commissioners shall, in and by any Writing under their Hands or by their said Award, direct, for the Passage of Cattle, Carts, and Carriages, through the same.

Openings to be left.

XXXII. And be it further enacted, 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 whatsoever, 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 seized 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

Settlements, &c. not to be prejudiced.

[Loc. & Per.]

11 L

(save

(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 or of the said recited Act.

Leases at Rack Rent to be void as to the Lands to be allotted or exchanged.

XXXIII. And be it further enacted, That all Leases, Agreements, and Tenancies, at Rack Rent now subsisting, of all or any Part of the said Lands and Grounds hereby directed to be divided and inclosed, alone or together with any Messuages, Cottages, ancient inclosed Lands, or other Hereditaments, lying within the Parish of *Horncastle* aforesaid, shall, as to such Part of the Lands and Grounds comprized in such Leases or Agreements as are so directed to be divided and inclosed or exchanged, by virtue of this Act, cease, determine, and be void, immediately after the making the several and respective Allotments and Divisions herein-before authorized and directed to be made, the respective Lessees or Tenants thereof first receiving or having duly tendered to them from the respective Proprietors of the said Premises, who have made or have assigned to them any such Leases or Agreements, such Satisfaction as the said Commissioners shall ascertain as reasonable and sufficient to be paid to such Lessees or Tenants respectively, as an Equivalent for the Loss or Losses they shall respectively sustain thereby: Provided nevertheless, that no Lease or Leases affecting any of the Messuages, Cottages, Toststeads, Lands, Hereditaments, or ancient Estates, in respect of which any Allotment or Allotments of the said Lands and Grounds by this Act intended to be divided and inclosed shall be made by virtue of this Act, in lieu of and as a Compensation for any Rights of Common only, be rendered or made void (except such Leases as are or may be made determinable on the passing of this Act;); but that the same shall remain and continue in full Force and Virtue.

Proprietors may sell and convey Common Rights separate from their other Property.

XXXIV. And be it further enacted, That it shall be lawful for any Person interested in the said Inclosure (except the said *Clement Madely* and his Successors, Vicars as aforesaid, the Churchwardens and Overseers of the Poor of the Parish of *Horncastle*, and the Person or Persons to whom any Allotment or Allotments shall be made in Trust for any College, Chapel, School, Hospital, Poor, or other publick Use or Charity) at any Time before the Execution of the said Award, to sell and dispose of all such Estate, Right, Title, and Interest, as he or she shall have in, to, or upon the said Commons and Waste Grounds, or in, or to any Allotment to be made in respect of any Common Right therein by virtue of this Act, and to convey the same to the Purchaser by Deed or other Writing, according to the Tenure of the Estate or Interest in respect whereof such Allotments shall be made, separate from the Estate or other Interests in right whereof he or she is or shall be so entitled, subject nevertheless to all Settlements, Mortgages, Charges, and Incumbrances, affecting such Estate or Interest; and all Sales, Conveyances, and Contracts for Sale, of such Common Rights or Allotments respectively, shall be and are hereby declared to be valid and effectual, and the same Common Rights or Allotments may be granted and conveyed accordingly, subject to such Incumbrances as aforesaid; 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;

ever; and the said Commissioners shall award such Allotments to the Purchasers thereof respectively.

XXXV. And be it further enacted, That it shall be lawful for any Person who shall be entitled to and seised in Fee Simple of any Allotment to be made by virtue of this Act, to sell and dispose of all his or her Estate, Right, Title, and Interest therein, at any Time before the Execution of the Award of the said Commissioners, and a proper Conveyance thereof being executed or passed, every such Sale being mentioned, expressed, or declared, by the said Commissioners in their said Award, shall be good, valid, and effectual in the Law.

Power to sell other Allotments before Execution of Award.

XXXVI. And be it further enacted, That the said Commissioners shall and may, either by their Award or by any other Writing or Writings under their Hands to take Effect in the mean Time and until the said Award shall be executed, order, direct, and appoint, when and to whose Use, and in what Proportions and Manner, all or any of the Penalties or Forfeitures which may be incurred by any Person or Persons not conforming to the Orders and Directions of the said Commissioners, herein authorized and required to be made and published for settling the Course of Husbandry to be used in and over the said Lands and Grounds, until the completing the said Division and Allotments, shall be paid and applied, and thereby to impose Penalties on all such Persons as shall plough any old Green Swarth Ground before the making of the said Division and Allotments, and on such as shall not conform to the Orders of the said Commissioners for ceasing the Right of Common over the said Fields, Lands, or Grounds, and to direct to whom, when, and in what Manner also the same shall be paid and applied, so that no such Penalty shall exceed the Sum of Five Pounds on any Person for any One Offence; and also direct and appoint what Recompence or Satisfaction in Money shall be paid unto or by any of the said Proprietors, to whom any Allotment or Allotments shall be made by virtue of this Act, by or unto the last Owner or Possessor of any Lands so to be allotted, for or in respect of the State or Condition in which such Lands may happen to be at the Time when the new Owner is to enter into the Possession thereof, and to appoint a Time or Times for Payment of such Satisfaction respectively; and also to order and award, issue, and pay, such Recompence and Satisfaction as they shall think just and reasonable to be made to any Owner, Tenant, or Occupier, who shall or may receive Damages in his Lands, Crops, or Fences, by and in consequence of making the said Division and Allotments, or any publick or private Drains or Watercourses over the same as aforesaid, or otherwise to order and appoint by whom and when such Recompence and Satisfaction shall be paid.

Application of Penalties.

XXXVII. And be it further enacted, That for the convenient Situation and Disposition of the several Farms and Lands within the Parish of *Horncastle* aforesaid, to the several Owners or Proprietors thereof upon the said intended Division and Inclosure, it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, by and with the Consent of the Owners, Tenants for Life or in Tail, or in Right of or in Trust for any Church, College, Corporation, Hospital, Parish, School, Poor, or other publick, pious, or charitable Use, or the Trustees,

Exchanges to be made.

tees, Committees, Guardians, Attornies, or Agents, or Persons acting as such of the Owners, Tenants for Life or in Tail, of any Messuages, Tenements, old Inclosures, or other Lands or Grounds, within the said Parish of *Horncastle*, or any Parish, Town, or Place, adjoining or near thereto, certified by any Writing under the Hands of such Owners, Tenants for Life or in Tail, or under the Hands of his, her, or their Trustees, Committees, Guardians, Attornies, or Agents, or Persons acting as such, and not otherwise, to assign, allot, set out, and appoint, any Messuages, Tenements, old Inclosures, or other Lands or Grounds, Rents, Revenues, or other their Rights and Interests therein, lying within the said Parish of *Horncastle*, or any Parish, Township, or Place, adjoining thereto, which belongs to any Person or Persons whomsoever, in lieu of or in Exchange for any other Messuages, Tenements, old Inclosures, or other Lands, Grounds, Rents, Revenues, or other Rights or Interests in, or issuing out of any other Messuages, Tenements, old Inclosures, or other Lands and Grounds in the said Parish of *Horncastle*, or in any Parish, Township, or Place, lying near or adjoining thereto; so that all and every such Exchange and Exchanges be ascertained, specified, and declared in the said Award; and so that all and every such Exchange and Exchanges to be made by the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid, be made by and with the Consent of the said Lord Bishop of *Carlisle*, and of the Bishop of the Diocese for the Time being.

For borrow-
ing Money.

XXXVIII. And be it further enacted, That it shall be lawful for all and every Person and Persons who, after such Division and Inclosure to be made as aforesaid, shall be Owners and Proprietors for the Time being of any of the Allotments to be made in pursuance of this Act, or of any Part thereof; or for the Husbands, Guardians, Trustees, Committees, or Attornies, of or for any of the said Owners or Proprietors, being under Coverture, Minors, or beyond the Seas, or otherwise incapable to act for themselves, and for every of them, and for any of the said Owners or Proprietors being Tenants for Life or in Tail, or for Years determinable on Lives, or any other Contingencies, and for every of them respectively for the Time being (except the said *Clement Madely* and his Successors, Vicars of *Horncastle* aforesaid), by and with the Consent of the said Commissioners, in Writing under their Hands and Seals from Time to Time either before or after the Execution of the said Award, to charge the several Lands and Grounds which shall be comprized in such respective Allotments or any Part thereof, with any Sum or Sums of Money at the Discretion of the said Commissioners, not exceeding Three Pounds for every Acre of the Land and Ground so to be allotted as aforesaid, to be paid to such Person or Persons as the said Commissioners shall nominate and appoint, in order to be applied and disposed of for and towards paying and defraying the respective Shares and Proportions of the Charges and Expences incident to and attending such Division and Inclosure as aforesaid, and of obtaining this Act and executing the same; and for securing the Repayment of the said Sum or Sums of Money, with Interest, to grant, mortgage, or demise, the Lands and Grounds so to be charged therewith, unto any Person or Persons who shall advance and lend the same respectively, for any Term or Number of Years; so that every such Grant or Demise be made with a Proviso or Condition to cease and be void, when such Sum and Sums of Money thereby secured, with the
Interest

Interest thereof, shall be fully paid and satisfied; and so that in every such Grant or Demise to be made by any Person or Persons entitled only as Tenant or Tenants in Tail or for Life, or Years determinable on Lives, or upon any other Contingency, there be contained a Covenant to pay and keep down the Interest of the Money thereby to be secured, during his, her, or their respective Life or Lives, or for so long as he, she, or they, shall continue seised of such Lands, Allotment or Allotments respectively, so that no Person afterwards becoming possessed of or entitled to such Lands or Grounds so to be charged with any Sum or Sums of Money as aforesaid, shall be liable to pay any further or larger Arrear of Interest than for One Year preceding the Time that the Title to such Possession shall have commenced; or otherwise it shall be lawful for the said Commissioners, by any Deed or Deeds, Writing or Writings, under their Hands and Seals, to be attested by Two or more credible Witnesses, at the Request of such of the said Owners and Proprietors, being Tenants in Tail, or for Life or Lives, or Years determinable on Lives, or upon any other Contingency, who shall respectively pay and discharge his, her, or their proportionable Part of the Charges and Expences aforesaid, to authorize and empower such Owners and Proprietors thereof respectively, to charge and subject the Lands and Grounds so to be allotted to such Owners and Proprietors thereof respectively, with any Sum or Sums of Money as the said Commissioners shall think just and reasonable, not exceeding Three Pounds *per* Acre, with Interest for the same as aforesaid, which Sum or Sums of Money so to be charged as aforesaid, shall be payable within One Month next after the Decease of every such Tenant in Tail, or for Life or Lives, or Years determinable on Lives, or other Contingency respectively, with the Interest thereof, to be computed from his, her, or their respective Decease, unto such Person or Persons as such respective Tenants in Tail, or for Life or Lives, or Years determinable on Lives, or other Contingency, shall respectively, by Deed or Will duly executed and attested, direct and appoint, and in Default thereof to his or their Executors or Administrators; and every Grant, Mortgage, Appointment, and Demise, or Charge by Deed or Will as aforesaid, shall be good, valid, and effectual in the Law, for the Purpose thereby intended.

XXXIX. And be it further enacted, That the Proprietors of the Lands and Grounds so be charged with any Sum or Sums of Money, shall duly pay and keep down the Interest during their respective Lives; and that no Person becoming possessed of such Lands and Grounds afterwards, shall be liable to pay any Arrear of Interest, further than One Year preceding the Time that the Title to such Possession shall have commenced; but that all Arrears above One Year before the Death of any such Proprietor, shall be paid by the Executors or Administrators of such Person so dying, in a Course of Administration.

For keeping down the Interest.

XL. And be it further enacted, That the Money which shall be advanced by any Person or Persons for the Purpose of defraying the Expences of applying for and obtaining this Act, shall be repaid, with lawful Interest, to such Person or Persons, out of the first Monies to be raised for defaying the Expences of obtaining and executing this Act.

Interest to be paid for Money advanced.

[*Loc. & Per.*]

11 M

XLI. And

Commissioners may borrow Money to pay Expences, till Sale of Land for that Purpose.

XLI. And be it further enacted, That it shall be lawful for the said Commissioners to borrow and take up at Interest of any Person or Persons willing to advance and lend the same, such Sum and Sums of Money as shall from Time to Time be necessary for defraying the Charges and Expences of executing this Act, until the same shall be raised by Sale of Land as herein-after mentioned; which Sum or Sums of Money so to be borrowed as aforesaid, shall be a Charge upon the said Open Fields, Meadows, Pastures, Commonable and Waste Lands, intended to be divided, allotted, and inclosed, until the same shall be raised and repaid by such Sale as aforesaid, with Interest for the same.

Power to sell Land for defraying the Expences of this Act.

XLII. And be it further enacted, That the said Commissioners shall and they are hereby required to ascertain what Shares or Proportions of the said Open Fields, Meadows, Pastures, Commonable and Waste Lands, will in their Judgement be sufficient to raise a competent Sum of Money for defraying the Charges and Expences of obtaining and passing this Act, of paying the Fees of the Commissioners, Surveyor, and Solicitor, of forming the Roads, of Ring-fencing the Tythe Allotments, and of all other incidental Expences attending the Execution of this Act, in relation to the several Matters aforesaid; and such Shares or Proportions so ascertained, shall be sold or disposed of (Six Weeks Notice thereof being first given) in the Manner directed by the said recited Act, and the Purchase Money shall be applied for the Purposes aforesaid.

Proprietors to have the Refusal of purchasing their Share of the Land directed to be sold.

XLIII. Provided nevertheless, and be it further enacted, That in case any Owner or Owners of any of the Open Fields, Meadows, Pastures, Commonable and Waste Lands, hereby directed to be divided and inclosed, shall be desirous of purchasing his, her, or their respective Share or Shares of the Lands and Grounds, or the Value thereof, so directed to be sold, he, she, or they, shall have the first Offer or Refusal thereof, at the Price fixed thereon by the said Commissioners.

Deficiency if any, to be made good by Proprietors.

XLIV. Provided always, and be it further enacted, That in case the Money arising by the Sale of such Allotment or Allotments as aforesaid, shall not be sufficient to defray all the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up by the several Persons interested in the said Open Fields, Meadows, Pastures, Commonable and Waste Lands (other than and except the said *Clement Madely* and his Successors, Vicars as aforesaid), and shall be paid in such Shares and Proportions, within such Time, and to such Person or Persons, as the said Commissioners shall direct, nominate, and appoint; or in case any Expence shall be incurred in the Execution of any of the Powers and Provisions of this Act, which ought to be borne and defrayed by any particular Person or Persons, and not out of the Money to be raised for the general Purposes of this Act, then the same shall be paid in such Shares and Proportions, and by such Person or Persons, and within such Time, and to such Person or Persons, as the said Commissioners shall direct, nominate, or appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Charges and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof, within the Time to be appointed as aforesaid, or at any Time after upon Demand,

Demand, the same shall and may be levied and recovered in the Manner directed by the said recited Act.

XLV. And be it further enacted, That all Costs, Charges, and Expences, attending the making of any Sales, Exchanges, or Partitions, to be made by virtue of the said recited Act or this Act, shall be paid, borne, and defrayed, by the several Persons making such Sales, Exchanges, and Partitions, in such Manner and in such Proportions as the said Commissioners shall, by their Award or other separate Writing under their Hands, order and direct.

Expences of Sales and Exchanges how to be paid.

XLVI. 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 shall and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act, such Statement or Account when so made, together with the Vouchers relating thereto, shall be by them laid before, examined, and balanced, by *Francis Rockcliffe*, of *West Ashby* in the said County of *Lincoln*, Clerk, *William Hirst Simpson* of *Roughton* in the said County, and *Henry Porter Wilson* of *Alford* in the same County, Gentlemen, or any Two of them, who are hereby appointed Auditors for that Purpose; and in case of their Refusal to act, then by such other proper Person or Persons, not interested in the Premises, to be appointed for that Purpose by the Majority in Value of the Proprietors liable to the Payment of the Expences of obtaining and executing this Act, and the Balance by the said Auditors shall be 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 Auditors as aforesaid.

Commissioners Accounts to be laid before Auditors.

XLVII. And be it further enacted, That the Award to be made by the said Commissioners, shall be inrolled with the Clerk of the Peace for the Parts of *Lindsey* in the County of *Lincoln*, and afterwards deposited in the Parish Church of *Horncastle* aforesaid.

Award where to be inrolled and deposited.

XLVIII. 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, then and in every such Case (except where the Orders, Determinations, and Proceedings of the said Commissioners are directed to be binding, final, or conclusive, and except in such Cases where an Issue or Issues at Law shall be tried as herein-before mentioned) he, she, or they, may appeal to any General Quarter Sessions of the Peace which shall be held in and for the said Parts of *Lindsey*, within Four Calendar Months next after the Cause of Complaint shall have arisen; and the Justices of such General Quarter Sessions are hereby authorized and required to hear and determine the Matter of such Appeal, and to make such Order therein, and award such Costs, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs 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

Allowing an Appeal.

dering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere.

General
Saving.

XLIX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest (other than such as are meant and intended to be barred and destroyed by this Act), as they and every of them had and enjoyed, of, in, and to, or in respect of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, in case this Act had not been made.

This Act to
be printed
by the King's
Printer, and
may be given
in Evidence
in all Courts
of Justice as a
publick Act.

L. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and when so printed may be given in Evidence in all Courts of Justice, and before all Judges and Justices whomsoever, who shall take judicial Notice thereof in like Manner as if the same had been declared to be a publick Act.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1803.