



ANNO QUADRAGESIMO PRIMO

# GEORGI III. REGIS.

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## Cap. 141.

An Act for dividing and allotting a certain Fen, called  
*Wildmore Fen*, in the County of *Lincoln*.

[2d July 1801.]

**W**HEREAS there is a certain Tract of Fen Land, Moor, or Marsh Ground, in the County of *Lincoln*, called *Wildmore Fen*, containing Ten thousand five hundred Acres, or thereabouts, whereon the Lord of the Manor of *Armtree with Wildmore*, and the Lords or Ladies of other Manors or supposed Manors, claim certain Rights and Privileges: And whereas the Owners and Proprietors of Houses, Toststeads, and Lands in the several Parishes, Townships, and Places of *Horncastle, West Ashby, Thimbleby, High Toynton, Low Toynton, Mareham on the Hill, Moorby, Wilksby, Mareham-le-Fen, Wood Enderby, Roughton, Haltham-upon-Bain, Coningsby, Dalderby, Kirkstead, Scrivelsby, Tumby, Bolingbroke, Revesby, Toynton All Saints, Toynton Saint Peters, Frith Bank, and Fishtoft*, in the said County of *Lincoln*, have and exercise certain Rights and Common of Pasture, in, over, and upon the said Fen: And whereas it would be highly beneficial to the Persons interested in the said Fen, and of great publick Utility, if the said Fen was divided into Parochial and other General Allotments, and proper Rules and Regulations established for the Use and Enjoyment thereof; but as the same cannot be effectually carried into Execution, without the Aid and  
[Loc. & Per.] 30 M Authority



Fen to be divided and allotted.

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 the said Fen shall be divided and allotted, by such Commissioners, and in such Manner, and under such Powers and Authority, and subject to such Rules, Orders, and Directions, as are herein-after mentioned, appointed, and declared.

Commissioners.

II. And be it further enacted, That *John Renshaw* of *Owthorpe* in the County of *Nottingham*, *William Whitelock* of *Brotherton* in the County of *York*, and *Joseph Outram* of *Alfreton* in the County of *Derby*, Gentlemen, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing and allotting the said Fen, and for carrying this Act into Execution, in Manner and subject to the Rules, Orders, and Directions herein-after contained; and that all Powers, Authorities, Directions, Acts, Matters, and Things hereby given to or directed to be done by the said Commissioners, may be done and executed by or before any Two of them, and shall be as valid and effectual as if executed by or before all of them; and the said Commissioners may adjourn from Time to Time, and if Two of the said Commissioners shall not appear at any Meeting in pursuance of this Act, then and in such Case any One of the said Commissioners then present may adjourn such Meeting to a future Day, not exceeding Fourteen Days from the Time of Adjournment, and shall give Notice thereof to the absent Commissioners; and in case no One of the said Commissioners shall appear at such Meeting, then One of the Clerks to the said Commissioners shall and may adjourn the said Meeting to, and appoint the said Commissioners to meet at the Place where the last Meeting was appointed to be held, on that Day Three Weeks next after the Day on which such last Meeting was appointed to be held, and shall and he is hereby required forthwith to give Notice of such Adjournment to the said Commissioners; any Thing herein contained to the contrary notwithstanding.

Two Commissioners may act.

Commissioners may adjourn Meetings.

If none present, Clerk may adjourn.

New Commissioners to be appointed upon Vacancies.

III. And be it further enacted, That if any of the Commissioners herein named, or any Commissioner to be appointed in their or any of their Place as herein-after mentioned, shall die, refuse, or be disabled to act, then and in every such Case it shall be lawful for the major Part in Value of the Proprietors of Houses, Toststeads, Lands, and Grounds within the said Parishes, Townships, or Places, having Right of Common on the said Fen, such Value to be ascertained by the Land Tax Assessments, who shall attend by themselves, or their known Agents at any Meeting convened for that Purpose within Two Calendar Months next after such Death, Refusal, or Disability shall be publicly known, to elect and appoint a new Commissioner, not interested in the said Division, in the Place of such Commissioner so dying, refusing, or becoming disabled to act, of which Meeting Ten Days Notice at least shall be given by the surviving or remaining Commissioners or Commissioner in the *Lincoln*, *Rutland*, and *Stamford Mercury*, or in One or more of the publick Newspapers usually circulated in the Neighbourhood of the said Fen, and the like Notice shall be also fixed upon One of the most publick Church Doors of the several Parishes of *Horncastle*, *Coningby*, and



and *Fishtoft* aforesaid, and every such Election and Appointment of a new Commissioner shall be reduced into Writing, and signed by the Persons making such Election and Appointment, and shall be delivered to the surviving or remaining Commissioners or Commissioner; and in case the said Proprietors shall make Default in appointing any such new Commissioner within Two Calendar Months next after any such Death, Refusal, or Disability shall happen, then the surviving or remaining Commissioners or Commissioner shall and may, and they and he are and is hereby authorized and required, from Time to Time by Writing under their or his Hands or Hand, within Fourteen Days after the Expiration of the said Two Calendar Months allowed to the said Proprietors for naming such new Commissioner or Commissioners as aforesaid, to appoint One other Commissioner, not interested in the said Division, in the Place of each Commissioner so dying, refusing, or becoming disabled to act; and every such new Commissioner so to be appointed, having first taken and subscribed the Oaths herein-after prescribed to be administered to him by such surviving or remaining Commissioners or Commissioner, shall have the like Powers and Authorities for carrying this Act into Execution in all Respects whatsoever, as the Commissioner in whose Place he shall have been so appointed and chosen was invested with by virtue of this Act.

IV. And be it further enacted, That every Commissioner who shall refuse or decline to act as aforesaid, shall and he is hereby required forthwith to give Notice of his Intention to refuse or decline acting as a Commissioner, in like Manner as Notices of Meetings of the said Commissioners are hereby required to be given.

Commissioners declining to act, to give Notice.

V. And be it further enacted, That *Anthony Bower* of the City of *Lincoln*, Land Surveyor, shall be and he is hereby appointed Surveyor for executing the several Powers and Authorities vested or intended to be vested in him by this Act; and in case of his Death, Neglect, Refusal, or Disability to act, then such other Person or Persons, not being interested in the said Division, as the said Commissioners shall direct and appoint to act in his Place and Stead, shall be the Surveyor or Surveyors for the Purposes of this Act; such Appointment to be reduced into Writing, and signed by the said Commissioners.

Appointment of Surveyor.

VI. Provided always, That it shall and may be lawful to and for the said Commissioners, if they think it necessary at any Time, to appoint One or more Person or Persons, not being interested as aforesaid, jointly with the said *Anthony Bower* to be Surveyor or Surveyors for the Purposes aforesaid.

Commissioners to appoint another Surveyor, or more, if necessary.

VII. Provided also, That no Commissioner, acting in the Execution of the Powers hereby given, shall be employed or act as Surveyor by virtue of this Act, during the Time he shall so act as a Commissioner.

No Commissioner to act as Surveyor.

VIII. And be it further enacted, That no Person shall act as a Commissioner or Surveyor in the Execution of any of the Powers hereby given (except the Power of signing and giving Notice of the First Meeting of the said Commissioners, and of administering the Oaths herein-after

Oaths to be taken by Commissioners and Surveyors.



after directed) until he shall have taken and subscribed the Oaths following; (that is to say),

Oath of Commissioners and Surveyor.

‘ I *A. B.* do swear [*or, being one of the People called Quakers, do affirm*] that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner [*or, Surveyor, as the Case may be*] by virtue of an Act of Parliament, made and passed in the Forty-first Year of the Reign of King *George* the Third, intituled, *An Act for dividing and allotting a certain Fen, called Wildmore Fen, in the County of Lincoln*, and agreeable to the Provisions and Directions thereof, without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.

‘ So help me GOD.’

Oath of their not being Proprietors, or otherwise disqualified to act.

‘ I *A. B.* do swear [*or, being one of the People called Quakers, do affirm*] that I am neither Proprietor or Occupier of, nor to the best of my Knowledge am I concerned as Guardian, Steward, or Agent, for any Person or Persons having or claiming Right of Common, or any Manerial Right, or any other Right or Interest whatsoever, in, over, or upon a certain Fen, called *Wildmore Fen*, in the County of *Lincoln*, or in any of the Parishes, Townships, or Places, having Right of Common thereon, or other Rights or Interests therein.

‘ So help me GOD.’

One Commissioner to administer same.

Which Oaths it shall be lawful for any One of the said Commissioners to administer, and he is hereby required to administer the same to any other of the said Commissioners, and also to the Surveyor or Surveyors, and to such Assistant or Assistants as shall be approved of by the said Commissioners in Writing under their Hands; and the said Oaths, so taken and subscribed by each Commissioner, and by the Surveyor or Surveyors, and his or their Assistant or Assistants, and also the Instrument of Appointment of every new Commissioner or Commissioners, or Surveyor (if any such there shall be) with the like Oaths to be taken by him or them, shall be inrolled with the Commissioners Award herein-after directed to be made, and shall be deemed legal Evidence.

Commissioners to give Notice of Meetings.

IX. And be it further enacted, That the said Commissioners shall cause publick Notice to be given in the several Parish Churches of *Horncastle, Coningsby, and Fishtoft* afore said, upon some *Sunday* immediately after Divine Service, or by Writing under their Hands, to be affixed on One of the most publick Doors of each of the said Churches, and also by Advertisement to be inserted in the *Lincoln, Rutland, and Stamford Mercury*, or in One or more of the publick Newspapers usually circulated in the Neighbourhood of the said Fen, of the Time and Place of their First and every subsequent Meeting for the Execution of this Act, Ten Days at least before any such Meeting of the said Commissioners shall be holden (Meetings by Adjournment only excepted).

Quality Men appointed to value, &c.

X. And, for the more just, impartial, and regular Division and Allotment of the said Fen by this Act intended to be divided and allotted, be it further enacted, That *William Porter* of *Freiston*, *John Bonner* of *Langton*, and *Stephen Morris* of *Dunham*, all in the County of *Lincoln*, Gentlemen, and their Successors (to be appointed in case of their Death, Refusal,



Refusal, or Disability to act, in such and the same Manner and Form as is herein before prescribed with respect to the said Commissioners in case of any Vacancy) shall be, and they are hereby appointed Quality Men, Valuers, and Appraisers, for qualitying, valuing, and appraising the said Fen; and also all and every other the Lands and Grounds in and by this Act directed to be surveyed and admeasured; and they are hereby required to make a true and perfect Valuation and Appraisement thereof respectively, on or before the First Day of *January* One thousand eight hundred and three, or so soon after as conveniently may be; and such Quality, Valuation, and Appraisement so to be made as aforesaid, shall be reduced into Writing, and signed by the said Quality Men, Valuers, or Appraisers; and that all Acts, Matters, and Things hereby directed and authorized to be done by the said Quality Men, may be done and executed by any Two of them; and the same shall be as valid and effectual as if done and executed by all the said Quality Men.

Two may act.

XI. And be it further enacted, That no Person shall be capable of acting as a Quality Man, Valuer, or Appraiser of the said Fen, Lands and Grounds, until he shall have taken and subscribed the following Oaths:

Oaths to be taken by Quality Men.

I *A. B.* do swear [*or*, being one of the People called Quakers, do affirm] that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, quality, value, and appraise the Fen, Lands, and Grounds directed to be divided and allotted, surveyed and admeasured, by virtue of an Act of Parliament, made and passed in the Forty-first Year of the Reign of King *George* the Third, intituled, *An Act for dividing and allotting a certain Fen, called Wildmore Fen, in the County of Lincoln*, without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.

Oath of Quality Men.

So help me GOD.

I *A. B.* do swear [*or*, being one of the People called Quakers, do affirm] that I am neither Proprietor or Occupier of, nor to the best of my Knowledge am I concerned as Guardian, Steward, or Agent, for any Person or Persons having or claiming Right of Common, or any Manerial Right, or any other Right or Interest whatsoever, in, over, or upon a certain Fen, called *Wildmore Fen*, in the County of *Lincoln*, or in any of the Parishes, Townships, or Places, having Right of Common thereon, or other Rights or Interests therein.

Oath of their not being Proprietors, or otherwise disqualified to act.

So help me GOD.

Which Oaths it shall be lawful for any One of the said Quality Men to administer, and he is hereby required to administer the same to any other of the said Quality Men; and the said Oaths, so taken and subscribed by each Quality Man, and also the Instrument of Appointment of every new Quality Man (if any such there shall be), with the like Oaths to be taken by him or them, shall be inrolled with the Commissioners Award herein, after directed to be made, and shall be deemed legal Evidence.

One Quality Man to administer same.

XII. And be it further enacted, That out of the Money that shall be raised for defraying the Expences of obtaining and carrying this Act into Execution, there shall be paid to each of the said Commissioners, as a Recompence for his Pains and Trouble, the Sum of Three Pounds Three

Allowance to Commissioners and Quality Men.

[*Loc. & Per.*]

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Shillings,



Shillings, and to each of the said Quality Men the Sum of Two Pounds 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 the said Commissioners and Quality Men shall defray their travelling Expences, and also their own Expences, at all Meetings to be held in pursuance of this Act; and that but One Meeting shall be charged for in any One Day.

Appointment of Clerks to the Commissioners.

XIII. And be it further enacted, That *Richard Clitherow* of *Horncastle*, in the County of *Lincoln*, Gentleman, and *Francis Thirkill* of *Boston*, in the said County, Gentleman, shall be and they are hereby appointed Clerks to the said Commissioners for carrying this Act into Execution; and One of them at least shall always attend the said Commissioners, and in case of their or either of their Death, Neglect, Refusal, or Disability to act, the said Commissioners may, from Time to Time, as often as there shall be Occasion, by Writing under their Hands, nominate and appoint some other Person or Persons to be their Clerk or Clerks for the Purposes of this Act, in the Place or Stead of the Clerk or Clerks who shall so die, neglect, refuse, or become disabled to act as aforesaid.

Boundaries of the Fen to be perambulated.

Notice of Perambulation.

XIV. And whereas Disputes may arise touching the Boundaries of the said Fen, where the same adjoins to any Parish, Township, or Place, be it therefore enacted, That the said Commissioners shall, as soon as conveniently may be after passing of this Act, fix and appoint some Day or Days for perambulating the Boundaries of the said Fen, where the same adjoins to any Parish, Township, or Place, and shall, at least Ten Days before the Time appointed for such Perambulation, give Notice of the Time and Place of beginning the same, in the several Parish Churches of *Horncastle*, *Coningsby*, and *Fishtoft* aforesaid, immediately after Divine Service, or by Writing under their Hands, to be affixed on One of the most publick Doors of the said Churches, and on One of the Church Doors of the Parish or Parishes immediately adjoining such Parts of the said Fen, the Boundaries whereof are intended to be then perambulated, specifying in such Notice the particular Time and Place of beginning such Perambulation; and also by Advertisement to be inserted in the said *Lincoln*, *Rutland*, and *Stamford Mercury*, or in One or more of the publick Newspapers usually circulated in the Neighbourhood of the said Fen; so that all Persons interested or concerned therein may have an Opportunity of attending the said Commissioners upon such Perambulation of the said Boundaries, the better to enable them to fix and ascertain the same; and after such Notice, the said Commissioners shall, and they are hereby authorized and required to make such Perambulation as aforesaid, and thereby, and also by Examination of Witnesses upon Oath, if they shall think necessary (which Oath any One or more of the said Commissioners shall, and he and they is and are hereby empowered to administer), and by such other legal Ways and Means as they shall think proper, to ascertain, fix, and settle the Boundaries of the said Fen against the Boundaries of any adjoining Parish, Township, or Place, and to cause the same to be set out, staked, and marked accordingly; and the Boundaries so to be fixed, ascertained, and determined by the said Commissioners as aforesaid, shall be set forth and described in the Award of the said Commissioners herein-after directed to be made, and shall be final, binding, and conclusive upon all Persons whomsoever, unless the same shall



shall be appealed from in the Manner herein-after mentioned: Provided nevertheless, That if any One or more of the Proprietors of Estates within any such adjoining Parish, Township, or Place, shall be dissatisfied with the Determination of the said Commissioners in relation to the setting out and fixing the said Boundaries, such Person or Persons may appeal against the same to the Justices of the Peace (not interested in the Matter in question) at the General Quarter Sessions to be holden for the Parts of *Lindsey*, in the said County of *Lincoln*, next after the Expiration of Twenty-one Days from the Meeting of the Commissioners at which such Determination shall have been made, the Person or Persons intending to make such Appeal giving to the said Commissioners, or One of them, Ten Days Notice at the least of such his, her, or their Intention; and the said Justices shall, and they are hereby required to hear and determine the Matter of such Appeal, and to settle and ascertain such Part of the said Boundaries in respect whereof such Appeal shall be made, and by whom the Costs shall be paid; and the Determination of the said Justices therein shall be final and conclusive.

Appeal for  
dissatisfied  
Proprietors.

XV. And be it further enacted, That a true and exact Survey and Admeasurement shall be made, as well of the said Fen hereby intended to be divided and allotted, as also of all the Fields, Ings, Lands, Meadows, Pastures, and Grounds, whether inclosed or open, lying and being within the several Parishes, Townships, and Places aforesaid, which have and exercise Right of Common on the said Fen, and fair Plans delineated thereof, on or before the First Day of *June* One thousand eight hundred and two, or as soon after as conveniently may be, by the said *Anthony Bower*, or the Surveyor or Surveyors to be appointed by the said Commissioners as aforesaid; and that such Survey and Admeasurement shall be reduced into Writing, and the Number of Acres, Roods, and Perches, in Statute Measure, contained in the said Fen, Fields, Ings, Lands, Meadows, Pastures, and Grounds, whether inclosed or open, within the several Parishes, Townships, and Places aforesaid, and of each and every Proprietor's distinct Property in the same respectively, at the Time of making such Survey and Admeasurement, and the separate Parishes, Townships, and Places wherein each and every Proprietor's distinct Property lies, shall be therein set forth and specified; and that the said Survey, Admeasurement, and Plans, shall be delivered to the said Commissioners on or before the First Day of *January* One thousand eight hundred and three, or as soon after as conveniently may be; and such Surveyor or Surveyors shall be paid such Sum and Sums of Money for the said Survey, Admeasurement, and Plans, and for his and their Attendance on the Commissioners, as they the said Commissioners shall think reasonable; and such Survey, Admeasurement, and Plans, shall be kept by the said Commissioners for the Purposes of this Act, and shall be verified at the Time the same shall be delivered, by the Oath or Oaths of the Person or Persons who shall make the same, if thereunto required by the said Commissioners, or any One of them (which Oath or Oaths any One or more of the said Commissioners is and are hereby empowered to administer), and to cause a Memorandum or Certificate thereof to be entered or indorsed upon each of the said Plans respectively.

Fen and  
Lands in  
Common  
Right Parishes  
to be surveyed.

XVI. Provided nevertheless, That in case the said Commissioners shall be satisfied with the Accuracy of any Survey or Surveys, Plan or Plans,  
already

Provision as  
to Lands al-  
ready sur-  
veyed to the



Satisfaction  
of the Com-  
missioners.

already had and taken of the Fields, Ings, Lands, Meadows, Pastures, and Grounds, whether inclosed or open, lying and being within any of the Parishes, Townships, or Places aforesaid, produced and laid before them, and verified upon Oath if required; then and in such Case the said Commissioners shall cause Copies thereof to be made and taken by their Surveyor or Surveyors, and no further or other Survey or Surveys, Plan or Plans, shall be made of the same Fields, Ings, Lands, Meadows, Pastures, or Grounds of such Parish, Township, or Place, for the Purpose of dividing or allotting the said Fen; any Thing herein before contained to the contrary thereof in anywise notwithstanding.

Power for  
Commission-  
ers, Quality  
Men, and  
Surveyors, to  
enter Lands.

XVII. And be it further enacted, That the said Commissioners, Quality Men, and Surveyors, appointed or to be appointed under or virtue of this Act, together with their Assistants and Servants, or any other Persons employed by them at any Time for the Purposes and the Execution of this Act, shall have, and they are hereby vested with full Power and Authority, at any Time or Times whatsoever, to enter into, view, examine, survey, admeasure, quality, value, and appraise, as well the said Fen hereby intended to be divided and allotted, as also all other the Fields, Ings, Lands, Meadows, Pastures, and Grounds, whether inclosed or open, lying within the said several Parishes, Townships, and Places having Right of Common on the said Fen.

Appeal from  
Valuation and  
Appraisement  
of Quality  
Men.

XVIII. And be it further enacted, That a true and fair Copy of the Valuation and Appraisement herein before directed to be made by the said Quality Men of the said Fen hereby intended to be divided and allotted, as also of all the Fields, Ings, Lands, Meadows, Pastures, and Grounds, whether inclosed or open, lying and being within the several Parishes, Townships, and Places having Right of Common on the said Fen, with Copies of the respective Plans thereof, shall be deposited by the said Quality Men with the Clerk to the said Commissioners resident at *Horncastle* aforesaid, and the said Quality Men shall give Notice of the same being so deposited, by Advertisement to be inserted Two successive Weeks in the *Lincoln, Rutland, and Stamford Mercury*, or in some other publick Newspaper usually circulated in the Neighbourhood of the said Fen, and also by Notice in Writing to be fixed on the most publick Door of each of the Churches within the said several Parishes having Right of Common on the said Fen, for the Inspection of every of the Proprietors, or his or their Agents, at all reasonable Times during the Progress of the said Division, paying to the said Clerk a Fee, not exceeding One Shilling, for every such Inspection; and if any Person or Persons shall be dissatisfied with such Valuation and Appraisement, such Person or Persons may appeal to the Commissioners acting in pursuance or by virtue of this Act, within Two Calendar Months after such Copies of such Valuation and Plans shall have been so deposited, and Notice thereof given as aforesaid, such Appellant or Appellants first giving Fourteen Days Notice to the Commissioners, or One of their Clerks, of his or their Intention to make such Appeal; and the said Commissioners, upon receiving such Notice, shall proceed to hear and finally determine the Matter of every such Appeal, and make such Order and Award as they shall think proper; and such Determination of the said Commissioners shall be final and conclusive to all Intents and Purposes whatsoever.

XIX. Provided



XIX. Provided always, That all such Valuations of the said Quality Men as shall not be appealed against, and Notice thereof given as aforesaid, within Two Calendar Months after such Valuation shall be so deposited by them with the said Clerk of the said Commissioners, and Notice thereof given as aforesaid, shall be absolutely binding and conclusive upon all Persons whomsoever; any Thing in this Act contained to the contrary notwithstanding.

Valuation not appealed against, to be final.

XX. Provided also, and be it further enacted, That in every Case where the Commissioners shall, on any such Appeal or Appeals, confirm the Valuation of the said Quality Men so appealed against, or shall value the Lands, Tenements, and Hereditaments at a lower Rate than the same have been valued at by the said Quality Men, then all the Charges and Expences attending such Appeal and Appeals, shall be paid by the respective Appellant or Appellants, and recoverable in like Manner as the several Penalties under this Act are recoverable; and on every such Appeal or Appeals, where the said Commissioners shall increase the Valuation appealed against, the Costs and Charges attending such Appeal or Appeals shall be paid out of the Monies to be raised for the Purposes of this Act.

How Expences of Appeals to be paid.

XXI. And be it further enacted, That all Encroachments and Inclosures which have been made upon or from the said Fen intended by this Act to be divided and allotted, within the Space of Thirty Years next preceding the Twenty-seventh Day of July One thousand eight hundred; shall be deemed Part of the said Fen; and in case any Difficulties or Disputes shall happen to arise, touching what are Encroachments or Inclosures, or whether the same have been made within the Time aforesaid, such Difficulties and Disputes shall be finally settled and determined by the said Commissioners, who shall have Power to examine Witnesses on Oath or Affirmation, and examine and receive such other Evidence as they shall think proper.

Encroachments within Thirty Years to be deemed Part of the Fen to be divided, &c.

XXII. And be it further enacted, That all and every Person and Persons having or claiming to have any Right of Common, or any other Estate, Property, Right, or Interest, in, over, or upon the said Fen hereby directed to be divided and allotted, shall and they are hereby required, by themselves, or their Guardians, Trustees, or Agents, to deliver their respective Claims in Writing under their Hands respectively, unto the said Commissioners, at such Meeting and Meetings as shall be held by them for that Purpose, pursuant to such Notice or Notices as is and are hereby directed to be given for carrying this Act into Execution, distinguishing in such Claims the Parish, Township, or Place within which the Houses, Toststeads, Lands, and Grounds in respect whereof such Claims are respectively made, are situate and lying, and the Name, Description, and Tenure thereof, and of the Person or Persons in the actual Occupation of the same; and that no such Claim or Claims shall be received by the said Commissioners, after the last Meeting to be held for that Purpose in pursuance of such Notices as aforesaid, and which shall be so expressed therein, except for some special Cause, to be allowed by the said Commissioners; and printed Copies of all such Claims shall be lodged with the Clerk of the said Commissioners resident at *Horncastle* aforesaid, for the Inspection of the Proprietors, and printed Copies or

Commissioners to determine upon Claims.



Extracts thereof (so far as the same concern or relate to the respective Parishes, Townships, and Places) shall be affixed on One of the most publick Doors of the severall Churches, or lodged in such other Places as the said Commissioners shall appoint for that Purpose (giving such previous Notice or Notices as aforesaid) in the severall Parishes, Townships, and Places within which the severall Houses, Toststeads, Lands, and Grounds in respect whereof such Claims are respectively made, are situate and lying; and the said Commissioners shall appoint such Days and Places when and where all Parties concerned may appear before them, and shew Cause for or against the Allowance or Disallowance of the said Claims; and at such Meeting and Meetings for the Purpose of allowing or disallowing such Claims, the said Commissioners shall proceed to examine into, settle, and determine the same; and in case any Doubts or Difficulties shall arise respecting such Claims, or any of them, or if any other Disputes or Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, the said Commissioners shall, and they are hereby authorized and required, by Examination of Witnesses upon Oath (which Oath the said Commissioners, or any One or more of them, are and is hereby empowered to administer), and by such other Evidence as they shall think proper, to hear and determine the same; and in case the Party or Parties making any such Claims, or the Person or Persons objecting thereto, shall be dissatisfied with such Determination, and shall by Writing under his, her, or their Hand or Hands, signify the same to the said Commissioners, within Twenty Days next after such Determination shall be made, 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 One of the said Commissioners, or such One or more of the Parties in whose Favour such Determination shall have been made, as the said Commissioners shall appoint, 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 One Calendar Month next after 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 finally tried and determined at the First or Second Assizes to be holden for the County of *Lincoln* next after the commencing of such Action; unless the Court shall direct further Time to be given; and the Verdict of the Jury on such Trial, and the Judgement thereon, shall be final and conclusive between the Parties, unless the Court shall see Cause to direct a new Trial; and after a Verdict which shall be satisfactory to the said Court, the Commissioners shall act in conformity thereto; and after any such Trial shall be had as aforesaid, the Costs and Charges of defending such Action, so far as the Defendant or Defendants therein shall be charged with Costs, shall be borne and defrayed out of the Monies raised for discharging the Expences of this Act.

An Issue allowed to Persons dissatisfied.

Determination of Commissioners not objected to, to be final.

XXIII. Provided always, That all such Orders and Determinations of the said Commissioners, as shall not be objected to by such Notice to be given to the said Commissioners as aforesaid, or being so objected to, and the



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 upon all Persons whomsoever; any Thing in this Act contained to the contrary notwithstanding.

XXIV. Provided always nevertheless, That nothing herein contained shall authorize the said Commissioners to hear and determine any Difference or Dispute which may arise touching the Right or Title to any Houses, Toststeads, Lands, Tenements, Common Rights, or other Rights within the several Parishes, Townships, and Places aforesaid; but for settling such Disputes and Differences, the Parties may commence and prosecute such Suits or Remedies at Law or in Equity, as they shall be advised and think proper.

Commissioners not to determine Rights.

XXV. Provided also, That no Difference or Suit, touching the Title to any Lands or Tenements, or other Rights, shall impede or delay the Commissioners in the Execution of the Powers vested in them by virtue of this Act; but the Division hereby directed to be made shall be proceeded in notwithstanding such Differences or Suits.

Suits not to impede the Division.

XXVI. And be it further enacted, That the said Commissioners (at the Request in Writing of any Person or Persons interested or claiming to be interested in the Execution of this Act, or otherwise as they shall see Occasion) shall and may, by Writing under their Hands, summon such Witness or Witnesses as shall be thought necessary, to appear and give Evidence before them on Oath (which Oath the said Commissioners, or any One or more of them, are and is hereby empowered to administer), at any Time and Place to be in such Writing appointed, upon reasonable Notice; and if such Witness or Witnesses, being duly and respectively served with such Summons, and having been paid or had tendered to him, her, or them, a Sum of Money sufficient to bear his, her, or their reasonable Charges of Attendance (to be ascertained by the said Commissioners), shall neglect or refuse to appear before the said Commissioners pursuant to such Summons, except for some reasonable Excuse, or appearing shall refuse to be sworn, and to give his, her, or their Evidence, then the said Commissioners, on due Proof made thereof before them, are hereby empowered and required, by Warrant under their Hands and Seals respectively, directed to any Person or Persons whomsoever, to cause to be levied, by Distress and Sale of the Goods and Chattels of every Person so refusing or neglecting to appear and give Evidence as aforesaid, any Sum of Money not exceeding Ten Pounds nor less than Five Pounds, rendering the Overplus (if any) upon Demand, after deducting the reasonable Charges of such Summons, Distress, and Sale, to the Person or Persons respectively whose Goods and Chattels shall be so distrained and sold as aforesaid, which Penalty, when recovered, shall be applied to the general Purposes of this Act; and if any Person, on his or her Examination upon Oath before the said Commissioners, shall wilfully or corruptly give false Evidence, such Person so offending, and being thereof duly convicted, shall be, and is hereby declared to be subject and liable to such Pains and Penalties as by any Law now in being Persons convicted of wilful and corrupt Perjury are subject and liable to.

Compelling Attendance of Witnesses.

Penalty.

XXVII. And



Commissioners to set out publick and private Roads, &c.

and to appoint Surveyors for first forming the Roads, &c.

The same to be confirmed at the Sessions.

XXVII. And be it further enacted, That the said Commissioners shall, as soon as conveniently may be, and before they proceed to set out the Allotments herein-after mentioned, set out and appoint such publick and private Roads and Ways as they shall judge necessary, and also such Drains, Watercourses, Ditches, Mounds, Fences, Banks, Cloughs, Engines, Bridges, Tunnels, Shuttles, Gates, Stiles, and other Works, in, over, through, or upon the said Fen hereby directed to be divided and allotted, as they shall judge necessary and proper, so as all such publick Carriage Roads shall be and remain Forty Feet in Breadth at least between the Ditches or Fences, and that the said private Roads or Ways shall be of such Breadth as the said Commissioners shall order or direct; and that it shall not be lawful for any Person to erect any Gate across any of the said publick Roads, or to plant any Trees in or near the Hedges on the Sides of any of the said Roads at a less Distance from each other than Fifty Yards; and after the said publick Roads shall have been set out as aforesaid, the said Commissioners shall, and they are hereby empowered and required, by Writing under their Hands, to appoint some proper Person or Persons to be Surveyor or Surveyors of the said Roads; and such Surveyor or Surveyors shall cause the same to be properly formed and completed, and put into good and sufficient Repair, and shall be allowed such Salary or Reward for his or their Trouble therein as the said Commissioners shall, by Writing under their Hands, direct and appoint; which Salary or Reward, and also the Expences of forming the said Roads, and of putting the same in good and sufficient Repair, shall be raised in like Manner as the Charges and Expences of obtaining and passing this Act, and carrying the same into Execution, are herein-after authorized and directed to be raised; and that not any of the Inhabitants of the said respective Parishes, Townships, or Places, having Right of Common on the said Fen, shall be charged or chargeable towards the forming or repairing of the said publick Roads, until the same shall be made fit for the Passage of Travellers and Carriages, and shall have been certified so to be by the said Surveyor or Surveyors, by Writing under his or their Hand or Hands, to be delivered to the Clerk of the Peace at some Quarter Sessions of the Peace to be holden for the Parts of *Lindsey*, in the said County of *Lincoln*, and until such Certificate shall have been allowed and confirmed by the Justices at such Sessions; which said Certificate shall be so delivered to the Clerk of the Peace at the Quarter Sessions for the said Parts of *Lindsey*, next after the said Roads shall be formed, completed, and put into good and sufficient Repair as aforesaid, and within the Space of Two Years next after the Execution of the Award or Instrument herein-after directed to be made, unless sufficient Reason be given, to the Satisfaction of the said Justices, that a further Time is necessary for that Purpose, in which Case the said Justices may, and they are hereby empowered to allow such further Time for delivering in the said Certificate as they shall think proper, not exceeding Twelve Calendar Months; and in case the said Surveyor or Surveyors shall neglect or refuse to deliver in such Certificate within the Time before limited, he or they shall forfeit and pay any Sum not exceeding the Sum of Ten Pounds nor less than Five Pounds, to be recovered in like Manner as any other Penalty is by this Act authorized to be recovered, and the same shall be applied for the general Purposes of this Act, in such Manner as the said Commissioners shall direct; and that after such Certificate shall have been delivered to the said Clerk of the Peace by the said Surveyor



veyor or Surveyors as aforesaid, and shall have been allowed and confirmed at such Sessions, the said Roads shall be from Time to Time amended and kept in Repair by the Inhabitants of the respective Parishes, Townships, and Places having Right of Common on the said Fen, in the same Manner as the other publick Roads within the said respective Parishes, Townships, and Places are by Law to be amended and kept in Repair; and that the said private Roads or Ways so to be made, set out, and appointed, shall at all Times thereafter be kept in Repair at the Expence of such Person or Persons, and in such Shares and Proportions, as the said Commissioners shall order, direct, and appoint; and that after such publick and private Roads and Ways shall be set out and made, it shall not be lawful for any Person or Persons to use any Roads or Ways, either publick or private, in, over, through, or upon the said Fen hereby directed to be divided and allotted, either on Foot, or with Cattle, Horses, or Carriages, other than such as shall be set out and appointed by the said Commissioners by virtue of this Act; and that all former Roads and Ways, which shall not be set out and appointed as the Roads and Ways through the said intended Division shall be deemed Part of the Lands to be divided and allotted by virtue of this Act, and shall be divided and allotted accordingly as Part thereof; and all such Drains, Watercourses, Ditches, Mounds, Fences, Banks, Cloughs, Engines, Bridges, Tunnels, Shuttels, Gates, Stiles, and other Works so to be made, set out, and appointed by the said Commissioners as aforesaid, shall at all Times thereafter be repaired, cleansed, maintained, and kept in Repair, by such Person or Persons, and in such Manner as the said Commissioners shall, in and by their Award or Instrument herein-after directed to be made, direct or appoint.

XXVIII. Provided nevertheless, and be it further enacted, That so soon as conveniently may be, after the said Commissioners shall have set out and appointed such publick and private Roads and Ways as aforesaid, they shall cause publick Notice thereof to be given in the *Lincoln, Rutland, and Stamford Mercury*, or in One or more of the publick Newspapers usually circulated in the Neighbourhood of the said Fen; and that it shall and may be lawful for any Person or Persons whomsoever, who shall think himself, herself, or themselves aggrieved by the setting out, Appointment, or Disposition of such publick or private Roads or Ways as aforesaid (on giving One Calendar Month's Notice in Writing to any One of the said Commissioners of his, her, or their Intention), to appeal against all or any of such publick or private Roads or Ways, to some General Quarter Sessions of the Peace to be holden in and for the Parts of *Lindsey*, in the said County of *Lincoln*, within Four Calendar Months next after such setting out, Appointment, and Disposition of the said Roads, and Notice given thereof as aforesaid, and he, she, or they shall be heard by himself, herself, or themselves, or by his, her, or their Counsel, Agents, Attornies, and Witnesses; and that the said Commissioners, or One of them, or their Surveyor or Surveyors, shall attend at such Sessions with a General Map or Maps of the said Fen, and the Justices, not interested in the said Division, before whom such Appeal shall be made, shall, on hearing the Evidence, and inspecting the said Map or Maps, finally determine where the said Roads or Ways so appealed against shall be, and whether any new or other Roads or Ways shall be set out, and shall make and give such Orders and Directions touching the Matters before them, as to them shall seem necessary and expedient

Commissioners to give Notice of having set out Roads.



in that Behalf; and such Determination of the said Justices shall be final, conclusive, and binding to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere; but in case no such Appeal shall be made within the Time aforesaid, then such setting out, Appointment, and Disposition of the said Roads and Ways by the said Commissioners as aforesaid, shall be final and conclusive to all and every Person and Persons whomsoever.

For selling  
Lands towards  
defraying  
Expences.

XXIX. And be it further enacted, That for providing a Fund for defraying the Costs, Charges, and Expences of obtaining this present Act, and carrying the same into Execution, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized, empowered, and required, as soon as conveniently may be after the passing of this Act, from Time to Time, and before the making of any of the Allotments herein-after directed to be made, to sell and dispose of such Parts or Parcels of the said Fen as they shall judge most proper and expedient, free, and exempt from all and all Manner of Tythes whatsoever, in Lots not exceeding One hundred Acres in each Lot, by publick Auction, to the highest Bidder or Bidders, at some of their Meetings to be held in pursuance of this Act, of which publick Notice shall be given by the said Commissioners in the *Lincoln, Rutland, and Stamford Mercury*, or in One or more of the publick Newspapers usually circulated in the Neighbourhood of the said Fen, at least Twenty-one Days before such Sale or Sales shall be made; and the Purchaser or Purchasers at every such Sale shall immediately pay to the said Commissioners who may be then present One Fifteenth Part of his, her, or their Purchase Money as and for a Deposit, and shall enter into an Agreement to pay the Residue of such Purchase Money within Six Calendar Months afterwards, into the Hands of the said Commissioners, who are hereby authorized to give Receipts for the same, and also for the Money to be paid as and for a Deposit as aforesaid: Provided always, That if any Purchaser having made such Deposit as aforesaid shall not pay the Whole of the Purchase Money within the Time appointed for Payment thereof, the Money so deposited shall be forfeited to the said Commissioners, and shall be by them applied for the Purposes of this Act; and it shall be lawful for the said Commissioners, on giving such Notice as aforesaid, to put up again to Sale such Lot or Lots, for which the Whole of such Purchase Money shall not have been paid, and so *toties quoties* until the same shall be sold; or the said Commissioners may, if they think proper, sell and dispose of such Lot or Lots by private Contract, for the best Price or Prices that can be gotten for the same, and the said Lands so to be sold shall, upon Payment of the full Purchase Money for the same, be conveyed as Freehold of Inheritance in Fee Simple, free from Tythe as aforesaid, unto the Purchaser or Purchasers thereof respectively, and a Conveyance or Conveyances of the same by Lease and Release, made and executed by the said Commissioners, shall be valid and effectual in the Law to vest the same in such Purchaser or Purchasers, and his, her, and their respective Heirs and Assigns absolutely for ever, subject and liable to such Taxes, Charges, Orders, Directions, and Regulations, as shall be made, laid down, and appointed by the said Commissioners in and by their Award herein-after directed to be made; and the said Commissioners shall apply the Monies arising by and from all and every such Sale or Sales in  
defraying



defraying the Costs, Charges, and Expences of obtaining and passing this Act, and of carrying the same into Execution, and all the Costs, Charges, and Expences of the surveying, admeasuring, planning, and valuing the said Fen, and other the Lands and Grounds herein before directed to be surveyed, admeasured, planned, and valued, and also of the dividing, allotting, and fencing the said Fen, and of preparing and enrolling the Award or Instrument herein after directed to be made, and depositing Copies thereof as herein after directed, and all other the necessary Costs, Charges, and Expences to be incurred in the due Execution of this Act; and in case there shall be any Surplus of the Monies arising from such Sale or Sales, after paying such Costs, Charges, and Expences as aforesaid, such Surplus shall be paid or applied as herein after directed with respect to the final Balance of Accounts.

XXX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out so much and such Parts of the said several Parochial or General Allotments as when taken together shall in their Judgement be equal in Value to One Tenth Part of all the Lands to be sold for the Purposes of this Act, Regard being had in the Lands so set out to the Proportion which each such Parochial or General Allotment shall bear to the aggregate Value of the Lands to be sold for the Purposes of this Act; and the said Commissioners shall allot the Lands so set out unto and amongst the several Tythe Owners interested therein respectively, according to such their Interests, in Lieu, Satisfaction, and Compensation of and for all and all Manner of Tythes which would have arisen or accrued due in respect of the Lands so to be sold as aforesaid, in case such Lands had not been sold free from Tythes; subject nevertheless, and the said Commissioners are also required in setting out such Parts of the said Parochial or General Allotments as herein before directed, to make such Deduction therefrom as in their Judgement shall be equivalent in Value to the Tythes of the Lands so to be sold for the Purposes of this Act as aforesaid, for the Space of Seven Years after the same shall be put into a State of Cultivation and Improvement; and the said Commissioners, in making such Deduction as aforesaid, shall have Regard to the Share or Proportion which each Parochial or General Allotment would have been entitled to, of or in the said Lands so to be sold, in case the same had formed Part of the Residue of the said Fens, and been divisible into Parochial or General Allotments as aforesaid.

Commissioners to allot Lands in lieu of Tythes of the Lands to be sold for the Purposes of this Act.

XXXI. Provided, and it is hereby further enacted, That in setting out and appropriating such Parts or Parcels of the said Fen for Sale as aforesaid, the said Commissioners shall have due Regard to the Situation of the several Parishes, Townships, and Places, having Right of Common as aforesaid, and to the Interest and Conveniency of the Owners and Proprietors of the Houses, Lands, Grounds, and Hereditaments, in such Parishes, Townships, and Places.

Regard to be had to the Situation of Parishes in the Sale of Lands.

XXXII. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, as soon as conveniently may be, and before they proceed to set out the Allotments herein after directed, to set out and allot such Parcels of Land in and upon the said Fen hereby directed to be divided and allotted, as the said Commissioners shall think most

Allotments to be made for getting Materials for Repairs of Roads.



proper and convenient to be used, not exceeding Twenty Acres in the Whole, for the Purpose of getting Gravel, Sand, or any other Materials for the Repairs of the several publick and private Roads and Ways directed to be made, in, over, or upon the said Fen, by virtue of this Act.

Manerial  
Clauses.

XXXIII. And be it further enacted, That after allotting such Part and Parts of the said Fen as shall be appropriated for the Expences of obtaining this Act, making of Roads and Drains, Sale of Lands, and for all other Costs, Charges, and Expences incurred in carrying this Act into Execution, the said Commissioners shall award, set out, and allot unto and for the Lord or Lords, or Owner or Owners of the Soil of the said Fen, exclusive of all other Allotments to be made to such Lord or Lords, Owner or Owners, for or in respect of any other Rights or Interests, such Plot or Parcel, Plots or Parcels of Land in the said Fen as shall in the Judgement of the said Commissioners (Quantity, Quality, and Situation considered) be equal in Value to One full Twentieth Part of the said Fen that shall remain after disposing of such Part or Parts thereof as shall be appropriated for the Purposes aforesaid, in lieu of, and as a full Compensation, Satisfaction, and Extinguishment of all Manerial Rights and Claims, including Brovage or Agistment, by the Lord or Lords, Owner or Owners of any Manor or Manors, Seigniorie or Seigniories, or reputed Manor or Manors, Seigniorie or Seigniories, of, in, over, and to the said Fen hereby directed to be divided and allotted, or any Part or Parts thereof, and of all Mines and Quarries, of what Nature soever, that may hereafter be found and opened under the said Soil, and in full Satisfaction and Compensation of all future Improvements, Benefits, and Advantages whatsoever that may hereafter arise or be made by any further Alterations or other Dispositions of the said Fen than what are intended to be made by this present Act; and that such Allotment of One Twentieth Part as aforesaid be set out in such Shares and Proportions, and in such Part or Parts, Place or Places in the said Fen, as they the said Commissioners shall judge proper.

Claims to the  
Soil and  
Freehold of  
the Fen, and  
to Brovage  
or Agistment  
for Cattle, to  
be tried by  
an Action at  
Law.

XXXIV. And whereas the Right Honourable the Earl of *Stamford* and *Warrington*, as Lord of the Manor of *Armtree* with *Wildmore*, is or claims to be exclusively entitled to the Soil and Freehold of the said Fen, and to Brovage or Agistment of Cattle, and all other Manerial Rights thereon; and Sir *Gilbert Heathcote* Baronet, as Lord of the Manors of *Coningsby* and *Exeter Fee*, *Richard Ellison* Esquire, as Lord of the Manor of the Abbey of *Kirkstead*, and the Honourable *Lewis Dymoke*, as Lord of the Manor of *Scrivelsby*, also respectively claim to be entitled to the Soil and Freehold of the said Fen, or some Part or Parts thereof, and to Brovage or Agistment of Cattle, and other Manerial Rights thereon; which said Claims are repugnant to or inconsistent with each other, and Differences are likely to arise between the Parties making such Claims; and it has been therefore thought adviseable that the respective Rights of the said Parties should be ascertained by One or more Trial or Trials at Law, in Manner herein-after mentioned, unless the said Parties should be able to agree upon and settle their said respective Rights or Claims within the Time herein-after limited for that Purpose; be it therefore further enacted, That the said Earl of *Stamford* and *Warrington*, Sir *Gilbert Heathcote*, *Richard Ellison*, and *Lewis Dymoke*, and all and every other

Person



Person and Persons having or claiming any Right or Interest in or over the said Fen hereby intended to be divided and allotted as aforesaid, in Right of, or as incident or appurtenant to any Manor or Seignior, or reputed Manor or Seignior, shall respectively, within Two Calendar Months before the Third Meeting of the said Commissioners to be holden under and in pursuance of this Act, deliver or cause to be delivered to the said Commissioners, or One of them, a Particular or Statement in Writing of the Nature and Extent of his and their respective Claims, Rights, and Interests in or to the said Fen and the Soil thereof, or any Part thereof, which said Particular or Statement shall be signed by the said Parties respectively, or their respective Agents; and if it shall appear by any such Particular or Statement, Particulars or Statements, to be delivered to the said Commissioners as aforesaid, that the Parties by or on whose Behalf the same are made out, or any of them, shall in any adverse Manner lay Claim to the same Rights or Interests, as Lord or Lords, or Owner or Owners, of any Manor or Seignior, or reputed Manor or Seignior as aforesaid, in, to, or over all or any Part of the said Fen to be divided and allotted by virtue of this Act, or to different Rights, Shares, or Interests therein which shall be repugnant to the Claim of any other or others of the said Parties, the said Commissioners shall thereupon, within Twenty Days from their said Third Meeting, give Notice in Writing of such adverse or repugnant Claims to the Party or Parties affected thereby; and in case the Parties making such adverse or repugnant Claim do not adjust and settle between themselves the Amount and Extent of their respective Rights and Claims, within Two Calendar Months after such Notice from the said Commissioners as last aforesaid, and by some Writing under their Hands, or the Hands of their respective Agents, signify to the said Commissioners within the same Time how and in what Manner they have settled and agreed upon their said respective Rights and Claims, the said Commissioners shall forthwith order the said several Persons making such adverse or repugnant Claims, within Two Calendar Months after the Date of such Order, to proceed to a Trial or Trials at Law, in One or more Action or Actions to be for that Purpose commenced in One of His Majesty's Courts at *Westminster*, by any One or more of the Persons making such adverse or repugnant Claims, against the other or others of them, his, her, or their respective Heirs or Assigns; and the Defendant or Defendants in such Action or Actions shall forthwith appear thereto, and accept a Declaration or Declarations, and plead to Issue therein, in such Manner and Form as that all such Claim or Claims, and Rights, may be properly tried and determined; such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced; if the Parties shall differ about the same, and such Action or Actions shall be tried before a Jury of the County of *Middlesex*, if the Court in which such Action or Actions is or are brought shall permit the same; and the said Commissioners for the Time being shall and may, if they shall think proper, upon the Application of any One or more of the said Parties in such Action or Actions, enlarge or give further Time for any of such Trials, so as such Time be not enlarged for more than Twelve Calendar Months from the Date of the said Commissioners Order directing such Trial to be had as aforesaid.

Particulars or Statements of the Claims to be delivered to the Commissioners.

XXXV. And be it further enacted, That the several Persons, Parties to any such Action or Actions as aforesaid, shall be finally concluded

[*Loc. & Per.*]

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Parties to abide by the Judgement given in such Actions. and



and bound by the Judgement to be pronounced therein, whether the same shall pass by Default or otherwise.

Commissioners to allot a certain Proportion to the Party whose Claim shall be established.

XXXVI. And be it further enacted, That from and after the different Rights and Interests of the said Earl of *Stamford* and *Warrington*, Sir *Gilbert Heathcote*, *Richard Ellison*, and *Lewis Dymoke*, or of such other Person or Persons who shall claim any Right or Interest in, to, or over the said Fen, as Lord or Lords, Owner or Owners of any Manor or Seignior, or reputed Manor or Seignior as aforesaid, shall be ascertained, either by Agreement between themselves, or by such Verdict or Verdicts, and Judgement or Judgements thereon as aforesaid, the said Commissioners shall thereupon set out and allot the said One Twentieth Part, or such Share or Proportion, Shares or Proportions thereof, in respect whereof such Trial or Trials shall have been so had as aforesaid, unto or between the several Persons whose Rights shall be so ascertained, according and in Proportion to their several and respective Rights and Interests as established as aforesaid, and such proportionable Part or Parts of the said Fen so to be set out and allotted to the said Earl of *Stamford* and *Warrington*, Sir *Gilbert Heathcote*, *Richard Ellison*, and *Lewis Dymoke*, or other Person or Persons whose Right shall be so established as aforesaid respectively, or any of them, shall be taken and accepted by them respectively for or in lieu of, and in full Satisfaction and Compensation of and for the Right and Interest of the Person or Persons to whom the same shall be so set out or allotted, in, over, and to the Soil of all the said Fen, and all Mines and Quarries, of what Nature soever, that may hereafter be found and opened under the said Soil, and also in full Compensation and Satisfaction of and for all future Improvements, whether by subdividing and inclosing the Parochial Allotments herein-after mentioned, or otherwise, and of all other Benefits and Advantages whatsoever that may hereafter arise and be made by any further Alterations or other Dispositions of the said Fen than what are intended to be made by this present Act, and also in lieu of and full Compensation for all Right of Brovage or Agistment of Cattle, and all other Marerial Rights whatsoever.

Allowing an Appeal against such Allotment, if the Party whose Claim shall be so established shall think the same unreasonable.

XXXVII. Provided always, and be it further enacted, That if the said Earl of *Stamford* and *Warrington*, Sir *Gilbert Heathcote*, *Richard Ellison*, and *Lewis Dymoke*, or any other Person or Persons claiming in Right of any Manor or Seignior, or reputed Manor or Seignior as aforesaid, shall think the Allotment or Allotments made to him or them respectively out of the said One Twentieth Part as aforesaid, in respect of such Right, not a reasonable and fair Proportion of such Twentieth Part, such Person may appeal to any General Quarter Sessions of the Peace to be holden for the Parts of *Lindsey*, in the said County of *Lincoln*, within Four Calendar Months next after such Allotment or Allotments shall have been made to him or them, such Appellant or Appellants first giving Fourteen Days Notice to the Commissioners, or One of their Clerks, of his or their Intention to bring such Appeal, and within Ten Days after such Notice entering into a Recognizance before some Justice of the Peace for the said Parts of *Lindsey* by themselves respectively, or Two sufficient Sureties, conditioned to try such Appeal, and abide the Order of, and pay the Costs which shall be awarded by such Quarter Sessions; and the Court, upon due Proof of such Notice and Recognizance, shall hear and finally



finally determine the Matter of every such Appeal in a summary Way, and make such Order and award such Costs to the Party appealing or appealed against as such Court shall think proper; and such Determination shall be final and conclusive to all Intents and Purposes.

XXXVIII. Provided always, and be it further enacted, That if any One or more of the said Parties having or claiming any such Right or Interest as aforesaid, shall omit or neglect to deliver to the said Commissioners such Particular or Statement as aforesaid within the Time herein-before limited for that Purpose, or having delivered in any such Particular or Statement to the said Commissioners as aforesaid, shall, after any such Order from the said Commissioners directing him or them to proceed to a Trial or Trials at Law in Manner aforesaid, on such his or their Claims or Rights, neglect or omit to proceed to such Trial of such his or their Right or Claim within Twelve Calendar Months from the Date of such Order, then, and in either of the said Cases, the several Claims or Rights of such Person or Persons, so neglecting or omitting to deliver in such Particular or Statement as aforesaid, or to try his or their Right or Claim, Rights or Claims as aforesaid, shall be considered to be waived and relinquished, and the same is and are hereby declared to be from thenceforth extinguished and void to all Intents and Purposes, and as if such Claim or Claims had never been made.

In case any of the Parties claiming such Right, &c. shall omit to proceed to a Trial, such Omission shall be deemed a Relinquishment of the Claim.

XXXIX. And be it further enacted, That the said Commissioners shall, and they are hereby authorized and required, after the several Allotments herein-before directed shall have been made, and likewise for any other Rights and Interests not herein mentioned and provided for, which shall be claimed and allowed by the said Commissioners or established by any Trial or Trials at Law, to set out, allot, and divide the Residue of the said Fen, subject nevertheless and without Prejudice to the Claims of any of the Owners or Proprietors of Houses or Toftsteads, to an exclusive Right of Common on the said Fen, in respect of Houses or Toftsteads only, if any such Right exists, unto and for the Use and Benefit of the Owners and Proprietors of Houses, Toftsteads, Lands, and Grounds in each and every of the said several Parishes, Townships, and Places of *Horncastle, West Ashby, Thimbleby, High Toynton, Low Toynton, Mareham on the Hill, Moorby, Wilksby, Mareham-le-Fen, Wood Enderby, Rough-ton, Haltham-upon-Bain, Coningsby, Dalderby, Kirkstead, Scrivelsby, Tumbly, Bolingbrooke, Revesby, Toynton All Saints, Toynton Saint Peters, Frith Bank, and Fishtoft*, in the said County of *Lincoln*, having Right of Common on the said Fen, and in such other Parishes, Townships, and Places, as shall appear to have Right of Common thereon, in Parochial or General Allotments and Proportions, and in such Manner as herein-after mentioned; (that is to say), the said Commissioners shall set out and allot One Moiety or Half Part in Value (Quantity, Quality, and Situation considered) of such Residue of the said Fens hereby directed to be divided and allotted, unto and for the Use and Benefit of the Owners and Proprietors of Houses and Toftsteads in the said several Parishes, Townships, and Places, having Right of Common as aforesaid, by separate Allotments to each Parish, Township, and Place, in Proportion and according to the Number of the Houses and Toftsteads within each of the said Parishes, Townships, and Places, having Right of Common on the said Fen (Regard being had to such Houses or Toftsteads only as were

Allotment of the Residue of the Fen to Houses and Toftsteads, and to Lands in Moieties.



entitled to such Right of Common on the Twenty-seventh Day of *July* One thousand eight hundred, and each Toststead being considered as entitled to One Moiety only of the Quantity of Land which shall be allotted as the Proportion of each House); and the remaining Moiety or Half Part of such Residue of the said Fen, unto and for the Use and Benefit of the Owners and Proprietors of Lands and Grounds in the same several Parishes, Townships, or Places, being entitled to Right of Common on the said Fen, on or before the said Twenty-seventh Day of *July* One thousand eight hundred, in respect of Common Right Houses within the said Parishes, Townships, and Places, or some or One of them, by separate Allotments to and for the Use of the Proprietors of Houses, Toststeads, and Lands in each Parish, Township, or Place, in proportion and according to the Value of such Lands and Grounds lying in each of the said Parishes, Townships, and Places respectively; and in making such Allotments, the said Commissioners shall distinguish the Quantity of Land allotted to or for the Use of the Proprietors in each Parish, Township, and Place, for or in respect of the Rights of Common appertaining to Houses and Toststeads therein, and the Quantity allotted to or for the Use of the Proprietors in each Parish, Township, and Place, for the Right of Common appertaining to Lands and Grounds lying therein respectively; and the said Commissioners shall set out such respective Parochial or General Allotments, as near and conveniently as may be to such of the said Parishes, Townships, or Places respectively, as adjoin the said Fen; and the Owners, Proprietors, or Occupiers of Houses, Toststeads, and Lands and Grounds within each such respective Parish, Township, or Place, shall have and enjoy the same Right of Common, and other Rights whatsoever, except such as are intended to be taken away by this Act, in, over, or upon the respective Part or Share so set out and allotted to or for the Use of the Proprietors of Houses, Toststeads, and Lands within such respective Parish, Township, or Place as aforesaid, as they are now entitled to have and enjoy, or could or might have held and enjoyed over the Whole of the said Fen, before the passing of this Act; subject nevertheless to such Provisions as are herein-after contained, for regulating the Right of Common on such respective Parochial or General Allotments, and stocking and managing the same respectively.

Provision for  
Claims not  
yet made.

XL. Provided always, and be it further enacted, That if any Claim or Claims be made for any Rights or Interests upon the said Fen other than those before-mentioned and provided for, and such Claim or Claims, after having been published in Manner herein directed for the Publication of Claims, shall not be objected to within the Time allowed for receiving Objections thereto, the said Commissioners are hereby authorized and required (before a Division of the Residue before-mentioned) to set out and award such Allotment or Allotments as they shall adjudge to be a fair and reasonable Compensation for such Claim or Claims; but if such Claim or Claims shall be objected to, the Parties claiming or objecting, or either of them (if the said Claim or Claims be not amicably settled within Two Calendar Months after such Objection made) shall be at Liberty to have the Validity of such Claim or Claims determined by One or more Trial or Trials at Law, in such Manner as Trials at Law are herein-before directed in other Cases to be determined.

XLI. And



**XLI.** And be it further enacted, That the several Shares and Allotments of the said Fen hereby directed to be divided and allotted to and for the Use of the Proprietors of Houses, Toststeads, and Lands in the several Parishes, Townships, and Places, which by virtue of this Act shall be entitled to the same shall be, and are hereby vested in the Owners and Proprietors of Common Right Houses, Toststeads, Lands, and Grounds within the said Parishes, Townships, or Places respectively, in full Satisfaction and Compensation of and for all Right of Common, and all other Rights whatsoever in, over, or upon the said Fen, and in Bar of all Claim or Right of Common upon any other Part of the said Fen which shall be assigned or allotted to the Use of any other Proprietors of Houses, Toststeads, or Lands in any other Parish, Township, or Place; and that from and immediately after the Execution of the said Award, or Instrument herein directed to be made, or so soon as the said Commissioners by any Writing under their Hands shall appoint, all Right of Common, and all other Right whatsoever belonging to or claimed by all and every the Owners and Proprietors of such Common Right Houses, Toststeads, Lands, and Grounds within each and every of the said Parishes, Townships, or Places, and of all other Persons whomsoever in, over, and upon the said Fen hereby directed to be divided and allotted, and every Part thereof (except only in, over, or upon the respective Part or Share, or Parts or Shares thereof which shall be assigned and allotted to or for the Use of the Proprietors of Houses, Toststeads, and Lands in each Parish, Township, or Place respectively) shall cease, determine, and be for ever extinguished.

Common Rights over the whole Fen to cease.

**XLII.** And be it further enacted, That if any Person or Persons shall at any Time or Times, from and after the passing of this Act, wilfully remove or take away any Mete, Bound, or Stake, fixed, put, set, or placed for the Purpose of dividing and allotting the said Fen, or any Part thereof, or for forming or setting out any of the publick or private Roads, Ways, or Drains directed by this Act, every such Person or Persons shall, for every such Offence so by him, her, or them from Time to Time committed, forfeit and pay a Sum not exceeding Forty Shillings, which shall be recovered before any One Justice of the Peace for the Parts of *Lindsey* aforesaid, in like Manner as any other Penalty is directed to be recovered by this Act.

Penalty on removing Boundaries.

**XLIII.** And be it further enacted, That in case any Person or Persons shall at any Time or Times after passing this Act, cut, dig, take up, carry, or lead away any Turf, Sods, Gravel, Sand, or Soil, from any Part of the said Fen hereby directed to be divided and allotted, every such Person or Persons so offending shall, on Conviction thereof before One Justice of the Peace for the Parts of *Lindsey*, by Confession of the Party offending, or by the Oath or Oaths of One or more credible Witness or Witnesses, for every such Offence forfeit and pay any Sum not exceeding Forty Shillings; and the Evidence of any Witness or Witnesses shall be admissible, notwithstanding his, her, or their being interested in the said Fen.

For preventing cutting Turf, &c.

**XLIV.** And be it further enacted, That it shall not be lawful for any Person or Persons, after the passing of this Act, to turn or put, or cause  
 [Loc. & Per.]

Penalty on Stocking the Highways.



to be turned or put, any Horses, Beasts, Sheep, Lambs, Swine, or other Cattle, into or upon any publick or private Roads, Ways, Lanes, or Passages in the said Fen, or to dig Pits or Holes therein, or to carry or take away any Sand, Gravel, or Soil from any publick or private Roads, Ways, Lanes, or Passages; and that all and every Person or Persons so offending shall, for each and every such Offence so by him, her, or them from Time to Time committed, forfeit and pay a Sum not exceeding Ten Shillings, which shall be recovered before any One Justice of the Peace for the Parts of *Lindsey* aforesaid, in like Manner as any other Penalty is directed to be recovered by this Act.

Notice thereof  
to be inserted  
in the County  
Paper, and  
affixed on the  
Church Doors.

XLV. Provided nevertheless, and be it further enacted, That as soon as may be after the passing of this Act, Copies or Extracts of the Two Clauses last mentioned shall be affixed upon One of the most publick Doors of each of the Churches within the several Parishes, Townships, and Places having Right of Common on the said Fen, and that like Copies or Extracts of such Clauses shall be inserted twice at least in the *Lincoln, Rutland, and Stamford Mercury*.

Division Fen-  
ces to be made.

XLVI. And be it further enacted, That all Division Fences, Bridges, Gates, Stiles, Ditches, and Watercourses, for dividing and separating the respective Allotments to be made by virtue of this Act, shall be made, built, and finished within Twelve Calendar Months, or so soon after as conveniently may be from the Time of setting out and allotting the same, or at such other Time or Times as the said Commissioners shall, by any Writing under their Hands, direct and appoint; and that the Expence of making of all such Division Fences, Bridges, Gates, Stiles, Ditches, and Watercourses, as shall be necessary for dividing and separating the respective Allotments to be made to or for the Use of each respective Person, Parish, Township, or Place, shall be borne by and defrayed out of the Monies to arise by the Sale of such Part or Parts of the said Fen as shall be sold for the Purposes of this Act; and that all such Division Fences, Bridges, Gates, Stiles, Ditches, and Watercourses, shall at all Times hereafter be repaired, scoured, and maintained, by and at the Expence of such Person and Persons, Parish, Township, or Place respectively, to whom or to whose Use the Lands hereby intended to be divided shall be allotted, and in such Manner as the said Commissioners shall, by their said Award herein-after directed to be made, order, direct, and appoint; and for the better preserving the young Hedges, it shall and may be lawful to and for the respective Persons, Parishes, Townships, or Places, to whom or to whose Use any Allotment or Allotments shall be so made, to set down and place Posts and Rails, or to make any other Fences (Ditches excepted) on the Outside of the Boundaries of their respective Allotments, not exceeding the Distance of Two Feet from such Boundaries, and at any Time or Times, before the End of the said Term, to repair the same when necessary.

Award to be  
made.

XLVII. And be it further enacted, That within the Space of Twelve Calendar Months next after the Division and Allotment of the said Fen shall have been made and completed, or as soon after as conveniently may be, the said Commissioners shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, which shall express



the Quantity, in Statute Measure, of the Acres, Roods, and Perches contained in the said Fen so directed to be sold, divided, and allotted as aforesaid, and the Quantity of each and every Part and Parcel thereof which shall be allotted to the respective Persons, Parishes, Townships, and Places entitled to or interested in the same, and shall also contain a Description of the Situation, Abuttals, and Boundaries of the same Parcels, and Allotments respectively, and also proper Orders and Directions for and concerning the laying out, making, maintaining, supporting, cleansing, and keeping in Repair the several Roads, Ways, Ditches, Fences, Banks, Drains, Watercourses, Cloughs, Engines, Bridges, Tunnels, Shuttles, Gates, Stiles, and other Works hereby directed or authorized to be made, and also all such Orders, Regulations, and Determinations as are in and by this Act mentioned, directed, required, and authorized to be made or established, and such other Orders, Regulations, Matters, and Things, as the said Commissioners shall think necessary and proper to be inserted in such Award, conformable to the true Tenor and Meaning of this Act; which said Award or Instrument shall be fairly written or ingrossed upon Parchment, and read over in the Presence of the Proprietors, who may attend at a Special General Meeting to be held for that Purpose, of which Ten Days Notice shall be given in the *Lincoln, Rutland, and Stamford Mercury*, or any One or more of the Newspapers usually circulated in the Neighbourhood of the said Fen; and the said Award shall, at the said Meeting, be executed by the said Commissioners, which Execution shall be proclaimed the *Sunday* then next following, in the respective Churches of the several Parishes, Townships, and Places having Right of Common on the said Fen; from which Time only the said Award shall be considered as complete; and the same shall, within the Space of Six Calendar Months after the signing and sealing thereof, be inrolled with the Clerks of the Peace for the Parts of *Lindsey* and *Holland* in the said County of *Lincoln*, respectively; and a true Copy of the Plan of the said Fen, and the Parochial and other Divisions and Allotments thereof, drawn upon Vellum or Parchment, and signed by the said Commissioners, shall be annexed to the said Award, and to each of the Inrolments thereof; and the same Award shall be deposited and kept in a Box or Chest in the Parish Church of *Horncastle* aforesaid, for the Use of all Persons interested therein, to the End that Recourse may be more readily had thereto; and a true Copy of the Inrolment of the said Award, or of any Part thereof, certified and signed by the Officer with whom the same shall be inrolled, or his Deputy, shall from Time to Time be admitted in all Courts whatsoever as legal Evidence; and such Officer is hereby required to make Copies thereof, or of any Part thereof, and to certify and sign the same from Time to Time when required, being paid for every such Copy and Certificate after the Rate of Four-pence *per* Sheet, reckoning Seventy-two Words to each Sheet; and any Person or Persons interested therein, shall have Liberty to inspect and peruse such Inrolment, paying to such Officer for every such Inspection or Perusal One Shilling, and no more; and the said Award, and the several Allotments and Divisions, Orders, Directions, Regulations, and all other Matters and Things therein contained, shall be, and are hereby declared to be binding and conclusive unto and upon all Parties interested in the said Division.

Notice of executing same.



Commission-  
ers may make  
Orders for re-  
gulating Com-  
mons.

XLVIII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby required, at any Time or Times before the Execution of their Award herein directed, when thereto requested by Writing under the Hands of the greater Part in Value (to be ascertained by the Land Tax Assessment) of the Owners or Proprietors of Houses, Tosteads, Lands, and Grounds in any One or more of the said Parishes, Townships, or Places for which such Parochial or General Allotments shall be made as aforesaid, having Right of Common thereon respectively, by Writing under their Hands, or by their said Award, to make such Rules and Orders for regulating the Manner of using and occupying the said Commons, and of stocking the same with Cattle, Sheep, and other Stock, and for limiting and stinting the Number and Kinds of the said Stock which each Person entitled to such Common Right shall be allowed to depasture thereon, and for limiting the Times and Seasons of stocking, and such other Rules, Orders, and Regulations, for the better Management and more convenient Enjoyment thereof, as they the said Commissioners shall from Time to Time think proper, and for the mutual Benefit of all Persons interested therein, according to their respective Rights and Interests; and also from Time to Time, on such Request in Writing, to annul, repeal, or alter any such Rules, Orders, and Regulations, and to make such other as they shall deem expedient, and for the mutual Benefit of all Persons interested therein, according to their respective Rights and Interests; and such Rules, Orders, and Regulations, so long as the same shall continue in Force, shall be binding upon and observed by all Persons interested in the said Commons in respect of which such Orders, Rules, and Regulations shall be made; and every Person who shall not conform to, or shall stock such Common or Commons contrary to such Rules, Orders, and Regulations, shall forfeit and pay for every Offence therein any Sum not exceeding the Sum of Ten Pounds, nor less than Five Pounds, to be recovered in like Manner as other Penalties under this Act are authorized to be recovered; and every such Rule, Order, or Regulation, made in Manner aforesaid by the said Commissioners, for any One of the said Parochial or General Allotments, shall be confined to that Allotment, and shall not extend to or affect any other of the said Allotments, so that each of the said Parochial or General Allotments may be distinct from and not connected with the other.

Destroying  
Fences.

XLIX. And be it further enacted, That if any Person or Persons shall at any Time or Times, from and after the passing of this Act, wilfully or maliciously demolish, pull down, break, or otherwise destroy or damage any Bridge, Stile, Mound, Bank, Clough, Engine, or Fence or Fences, or any other Work that shall or may be erected, set up, provided, or made, for the Purpose of dividing or allotting the said Fen, or any Part thereof, every such Person or Persons, being lawfully convicted of any or either of the said several Offences, or of causing or procuring the same to be done, shall be adjudged guilty of Felony, and shall be subject to the like Pains and Penalties as in Cases of Felony, and the Court by or before whom such Person or Persons shall be tried, shall have Power and Authority to transport such Felon or Felons for the Term of Seven Years, in like Manner as other Felons are directed to be transported by the Laws and Statutes of this Realm; or in Mitigation of such Punishment, such Court



Court may, and are hereby empowered, to award and impose such Fine and Imprisonment as such Court shall judge expedient.

L. And be it further enacted, That if any Person or Persons shall advance and pay any Sum or Sums of Money for the Purpose of defraying the Expences of obtaining and passing this Act, or of carrying the same into Execution, every such Person shall be repaid the same, with Interest, after the Rate of Five Pounds *per Centum per Annum*, out of the first Monies which shall be received or raised for defraying any Expences by virtue of this Act.

Persons advancing Money to have the same repaid with Interest.

LI. And be it further enacted, That fair and regular Entries shall be made in a Book or Books to be provided for that Purpose, of all the Acts, Orders, Rules, Regulations, Directions, and Proceedings of the said Commissioners relative to the Execution of this Act, and of the Names of the Commissioners who shall be present at the respective Meetings, and the same shall be signed by the said Commissioners for the Time being, or by their Clerk or Clerks by their Order, and all such Entries being so signed, shall be deemed Originals, and shall be allowed to be read in Evidence in all Courts whatsoever, in all Cases, Suits, and Actions, touching any Thing done in pursuance of this Act.

Proceedings of Commissioners to be entered, and when signed good Evidence.

LII. And be it further enacted, That the said Commissioners shall, and they are hereby required to enter in a Book to be provided for that Purpose, an Account of all Sums of Money raised or received by them from the Sale of Lands or otherwise, during the Progress of the intended Division, by virtue of any Powers granted by this Act; and also of all the Charges, Expences, and Disbursements which shall accrue or be made by virtue of this Act, and in carrying the same into Execution; and a true and exact Balance of such Account shall be made out and fairly stated in the said Book every Six Months during the Progress of the said intended Division; which Book of Accounts shall be kept at the Office of the Clerk to the said Commissioners residing at *Horncastle* aforesaid, open at all reasonable Times, during the Progress of the said Division, and till all the Accounts are finally settled, for the Inspection of any of the Proprietors, or their Agents, paying to the Clerk a Fee for such Inspection, not exceeding One Shilling; and in case the said Commissioners or their Clerk shall neglect to provide and keep such Book of Account as aforesaid, or refuse the Inspection thereof to any of the Proprietors at reasonable Times in Manner before mentioned, and shall be convicted thereof upon the Oath of One or more credible Witnesses or Witnessess not interested in the intended Division, before any Justice of the Peace of the said Parts of *Lindsey*, or of such other County or Place where such Commissioner or Clerk so offending shall be or reside, every such Commissioner or Clerk so causing such Neglect or Refusal, and convicted as aforesaid, shall forfeit and pay, for every such Offence, any Sum not exceeding Ten Pounds, nor less than Five Pounds; and if he or they shall make Default in paying such Sum for the Space of Ten Days next after such Conviction, the same shall be levied by Distress and Sale of the Goods and Chattels of the Party or Parties so offending, by Warrant under the Hand and Seal of such Justice (which Warrant such Justice is hereby empowered and required to grant) and the Overplus, after such Penalty, and the Charges

Commissioners to enter Accounts in a Book;

for the Inspection of Proprietors.

Penalty on neglecting to keep Account, or refusing Inspection.



of such Distress and Sale, are deducted, shall be returned, upon Demand, unto the Owner or Owners of such Goods and Chattels; and the Money arising by such Forfeiture or Penalty shall be paid and applied for the Purposes of this Act.

Monies raised to be deposited in the Hands of a Banker, &c.

LIII. And be it further enacted, That all the Monies to be raised and received under and by virtue of the Powers of this Act, during the Progress of the said intended Division, shall from Time to Time, as often as the same shall amount to the Sum of Fifty Pounds, be paid to, and deposited in the Hands of some Banker or Bankers, or of such other Person or Persons as shall be approved of by a Majority in Value of the Proprietors who shall attend, by themselves or their known Agents, at the First Meeting of the said Commissioners, and in the Notice of which Meeting shall be expressed the Intention of then appointing such Banker or Bankers, or such other Person or Persons; and no such Monies deposited or paid into the Hands of such Banker or Bankers, or other Person or Persons, to be appointed as aforesaid, shall be issued or paid by him or them without an Order in Writing under the Hands of the said Commissioners, specifying the Person or Persons to whom the same are respectively payable, and the Service or Consideration for which the same are due; and that the Balance (if any) upon the final Settlement of all Accounts in anywise concerning the Business of the said intended Division, shall be immediately paid and applied in such Manner, and for such Purposes, as shall be directed by a Majority in Value of the Proprietors who shall attend, by themselves or their known Agents, at a Meeting to be held by them for that Purpose, pursuant to such Notice or Notices as is and are hereinbefore directed to be given for the Sale of Lands for providing a Fund for defraying the Costs, Charges, and Expences of obtaining this Act, and carrying the same into Execution.

For Recovery of Penalties,

LIV. And be it further enacted, That all Penalties and Forfeitures imposed by or under the Authority of this Act, or the Award directed to be made in pursuance thereof, shall be levied and recovered in a summary Way before any One Justice of the Peace for the said Parts of *Lindsey*; not interested in the Matter in question; for which Purpose it shall be lawful for any such Justice of the Peace, upon Complaint made to him, to summon the Party accused, and the Witnesses on both Sides, and upon the Appearance or Contempt of the Party accused, to examine such Witnesses upon Oath (which Oath every such Justice is hereby empowered and required to administer); and upon such Evidence to give Judgement accordingly, and to condemn the Party accused (Proof of the Accusation being made to the Satisfaction of the said Justice by One or more Witness or Witnesses as aforesaid) in such Penalties and Forfeitures as he or she shall have incurred, and to levy such Penalties and Forfeitures by Distress and Sale of his or her Goods and Chattels, together with reasonable Costs; all which Penalties and Forfeitures, the Application whereof is not particularly directed by this Act, shall, when and so often as the same shall be levied, be paid and applied to and for such Uses, Intents, or Purposes of this Act, as the said Commissioners shall order, direct, or appoint.

Appeal to the Quarter Sessions.

LV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done by  
virtue



virtue or in pursuance of this Act, then and in every such Case (except in such Cases where Provision is made for a Trial at Law, and where the Orders and Determinations of the said Commissioners are hereby directed to be final, or where otherwise provided for or directed by this Act) he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said Parts of *Lindsey*, within Six Calendar Months next after the Cause of Complaint shall have arisen, on giving Twenty Days Notice to the said Commissioners of such his, her, or their Intention of appealing; and the Justices in their said General Quarter Sessions (except such of them as shall or may be interested in the Matters in question) are hereby authorized and required to hear and determine the Matter of every such Appeal, and to make such Order therein, 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 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 every such Distress and Sale; which Determination shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*, or elsewhere.

LVI. And whereas by an Act made and passed in the Second Year of the Reign of His present Majesty, intituled, *An Act for draining and preserving certain Low Lands called the Fens, lying on both Sides of the River Witham, in the County of Lincoln, and for restoring the Navigation of the said River from the High Bridge, in the City of Lincoln, through the Borough of Boston, to the Sea*, it was (amongst other Things) enacted, That it should and might be lawful to and for the Commissioners of the Fourth District mentioned and described in the said recited Act, or any Five or more of them, to raise or cause to be raised such Taxes as should be charged or assessed upon the Commons in *Wildmore Fen*, for defraying the Charges and Expences as well of the General Drainage, as of the particular Works to be done within the said Fourth District, by inclosing any Part of the said Commons, not exceeding Six hundred Acres; and that the said Commissioners, or any Five or more of them, should and might from Time to Time, as long as it should be necessary for the Purposes aforesaid, grant a Lease or Leases of the Land and Ground so to be inclosed, unto any Person or Persons, at and for the best Rent they could get for the same, for any Term not exceeding Twenty-one Years; and that the Money arising from such inclosed Lands by virtue and in pursuance of the said recited Act should be applied only towards paying the Taxes and Rates charged on the said *Wildmore Fen*; be it therefore further enacted, That from and after the Fifth Day of *April* One thousand eight hundred and two, all and every the several Rates and Taxes by the said recited Act charged upon the said *Wildmore Fen* by this Act directed to be divided and allotted, shall be paid from and out of the Monies arising by the Sale or Sales of Lands directed to be sold by this Act, until the Execution of the said Award herein directed to be made, and from and after the Execution of the said Award, be charged upon  
and

*Witham Act*  
recited.



and paid by the said several Parishes, Townships, and Places respectively, out of the Rates belonging to each Parish, Township, or Place, according to such Proportion of Acres as shall be settled by the Commissioners under this Act; and in Default of Payment of any of the said Rates and Taxes by any of the said respective Parishes, Townships, or Places, the Commissioners acting under the said recited Act shall and may recover such Rates and Taxes so behind and unpaid from any of the respective Parishes, Townships, or Places so making Default, by such Ways and Means, and by such and the same Powers and Authorities as are vested in them by the said recited Act, in Default of Payment of any of the Rates and Taxes charged on the said *Wildmore Fen* by the said Act, and shall and may inclose such Part of the Common Fen allotted to or for the Use of the Proprietors of Houses, Toststeads, and Lands, within each Parish, Township, or Place, as shall be sufficient for defraying the Rates and Taxes to be paid and borne by the Fen belonging to such Parish, Township, or Place: Provided nevertheless, That no Land so inclosed by the said Commissioners shall be broke up, ploughed, or converted into Tillage: And provided also, That no Lease shall be granted for the same for more than One Year at One Time.

Declaring certain Leases void, on making Satisfaction to the Lessees thereof.

LVII. And whereas the Commissioners acting under the said recited Act have, in pursuance of the Powers therein given, inclosed and let upon Leases several Pieces or Parcels of the said Fen by this Act directed to be divided and allotted, for Payment of the Taxes charged by the said recited Act on the said Fen, be it therefore further enacted, That all and every such Lease and Leases subsisting of any Pieces or Parcels of the said Fen directed to be divided and allotted, or any Part thereof, and all other Agreements for any Time or Term therein, shall, on the Fifth Day of *April* One thousand eight hundred and two, cease, determine, and be void, the said Commissioners acting under this Act, making, from and out of the Monies to be raised by virtue of this Act, such Satisfaction to such respective Lessee or Lessees, Tenant or Tenants, for his, her, or their Losses and Disadvantages which may be occasioned by vacating such Leases or Agreements respectively, as the same Commissioners shall ascertain and think reasonable.

For preserving certain Powers contained in the said Leases.

LVIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to invalidate, lessen, prejudice, obstruct, prevent, defeat, alter, or take away any of the Rights, Remedies, Powers, and Authorities contained in the said Leases, or any of them, so far as the same relate to the enforcing and compelling the Payment of Rents, and the recovering of Penalties for the Breach of any Covenant or Covenants therein reserved and contained, and which shall become due, or be incurred and forfeited on or before the said Fifth Day of *April* One thousand eight hundred and two; but that the same Rights, Remedies, Powers, and Authorities, shall be and continue in as full Force and Virtue for the Intents and Purposes aforesaid, as if this Act had never been made; any Thing herein contained to the contrary thereof in anywise notwithstanding.

LIX. Provided



LIX. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to prejudice, obstruct, prevent, or defeat any of the Works made or to be made in pursuance of the said in Part recited Act, or to empower the Commissioners acting by virtue of this Act, or any of the Proprietors interested in the said intended Division and Allotment, to invalidate, lessen, alter, or take away any of the Rights, Powers, and Authorities, which by the said *Witham* Act were vested in all or any of the Commissioners acting under the said Act (except such Rights, Powers, and Authorities as are altered or taken away by this Act); but that the same shall be and continue as fully, to all Intents and Purpose (except as aforesaid), as if this Act had never been made; any Thing herein contained to the contrary thereof in anywise notwithstanding.

This Act not to prejudice or obstruct the Powers of the Commissioners in the *Witham* Act.

LX. Provided always, and be it further enacted, That nothing contained in this Act shall extend, or be construed to extend, to prejudice, obstruct, prevent, or defeat any of the Works to be made in pursuance of an Act for the better and more effectually draining the said *Wildmore Fen*, together with certain other Fens called the *East* and *West Fens* in the said County of *Lincoln*, or to empower the Commissioners acting by virtue of this Act to invalidate, alter, lessen, or take away any of the Rights, Powers, and Authorities which may be vested in the Commissioners appointed or to be appointed in or by the said Act; any Thing herein-before contained to the contrary thereof in anywise notwithstanding.

This Act not to prejudice the Powers of the Commissioners under the Drainage Act.

LXI. And be it further enacted, That nothing herein contained shall prejudice, lessen, or defeat the Right, Title, or Interest of any Lord or Lords, Lady or Ladies, of any Manor or Manors, of, in, and to any Seignories or Royalties, or any Land or Lands incident or belonging thereto; but that every Lord or Lords, Lady or Ladies, of such Manor or Manors, shall and may at all Times hereafter hold and enjoy all Rents, Services, Fines, Courts, Courts Leet and Baron, Perquisites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in Exigent, Deodands, Waifs, Estrays, Forfeitures, and all Royalties and Privileges to the said Manor or Manors respectively incident, appendant, belonging, or appurtenant (other than those which are intended to be barred and destroyed by this Act) in as full, ample, and beneficial Manner, to all Intents and Purposes, as he, she, or they held and enjoyed the same before the passing of this Act; any Thing herein-before contained to the contrary thereof notwithstanding.

Saving Rights to Lords of Manors.

LXII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politick or Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Estates, Rights, and Interests (other than and except the Rights of Common, Soil, Brovage, and Herbage, and other Rights meant and intended to be barred by this Act), as they, every, or any of them had or enjoyed in, over, or upon the said Fen hereby directed to be divided and allotted as aforesaid before the passing of

General Saving.



this Act, or would or ought to have had, held, or enjoyed in case this Act had not been made.

**Publick Act.** LXIII. And be it further enacted, That this Act shall be deemed and taken to be a Publick Act, and all Judges, Justices, and other Persons are hereby required to take Notice thereof as such, without the same being specially pleaded.

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