ANNO TRICESIMO SEXTO

Georgii III. Regis.

CAP. XI.

An Act for embanking, draining, and otherwiſe improving, a certain Stinted Paſture, called *Lancaſter Marſh*, in the County Palatine of *Lancaſter*.

[18th *December* 1795.]

Preamble.

WHEREAS there is, within the Borough and Townſhip of *Lancaſter*, in the County Palatine of *Lancaſter*, a certain Stinted Paſture, called *Lancaſter Marſh*, containing Two hundred and ten Acres, or thereabouts, which is frequently overflowed by the Sea, and is alſo ſubject to Land Floods, and in its preſent State yields but very little Profit, but is capable of great Improvement: And whereas the Mayor, Bailiffs, and Commonalty, of the Vill or Town of *Lancaſter*, are ſeiſed in Fee of the ſaid Marſh, ſubject to certain Rights of Graſs or Cattle Gates thereon: And whereas it would be for the Advantage of the ſeveral Perſons intereſted in the ſaid Marſh if the ſame was to ceaſe being a Common Paſture, and in lieu thereof if the ſaid Marſh was incloſed and properly embanked, drained, or otherwiſe improved, and the Rents and Profits to ariſe therefrom paid and applied from Time to Time to and for the Uſe and Benefit of the ſeveral Perſons who are or ſhall be intereſted in the ſaid Marſh: But ſuch Improvements cannot be made without the Aid 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

Right of Cattle Gates to ceaſe, and the Marſh to be veſted in Truſtees.

preſent Parliament aſſembled, and by the Authority of the ſame, That, from and after the paſſing of this Act all Right of Graſs or Cattle Gates, and all other Right of Common of Paſture, in, upon, and over the ſaid Marſh, ſhall ceaſe and be for ever extinguiſhed; and that the ſaid Marſh ſhall from henceforth be veſted in the Mayor, Bailiffs, and Commonalty, of the ſaid Vill or Town of *Lancaſter*, for ever freed and diſcharged of and from all Right, Title, and Intereſt whatſoever, which any Perſon or Perſons, Body Politick or Corporate, had in the ſame, or any Part thereof, (except as herein-after is mentioned or excepted), in Truſt nevertheleſs for the Purpoſes herein-after mentioned.

Appointing Truſtees for carrying the Act into Execution;

II. And be it further enacted, That the ſaid Mayor, Bailiffs, and Commonalty, are hereby appointed Truſtees for incloſing, embanking, draining, and otherwiſe improving the ſaid Marſh, and for putting the ſeveral Powers and Authorities given and granted by this Act into Execution; and the ſaid Truſtees ſhall and are hereby authorized and required, as ſoon as conveniently can be done, to ſet out ſuch Quantity or Parcel of the ſaid Marſh as in their Judgement will, by the Sale thereof, produce a Sum of Money ſufficient to pay and defray all the Charges and Expences attending the obtaining and paſſing of this Act, and of carrying the ſame into Execution, and ſhall cauſe the Land ſo to be ſet out to be ſold by publick Auction, in ſuch Manner as they ſhall think proper, for the beſt Price that can be gotten for the ſame; and that the Lands ſo to be ſold ſhall, after Payment of the full Purchaſe Money for the ſame, be veſted in Fee Simple in the Purchaſer or Purchaſers thereof, and ſhall be conveyed to and veſted in him or them by the ſaid Truſtees, under the Common Seal of the ſaid Mayor, Bailiffs, and Commonalty, by virtue of this Act; but no ſuch Sale as aforeſaid ſhall be made unleſs Fourteen Days Notice thereof at leaſt ſhall be affixed on the principal Door of the Pariſh Church in the ſaid Town of *Lancaſter*, and the like Notice advertiſed in ſome Newſpaper publiſhed in the ſaid County, appointing the Time and Place for ſuch Sale; and that all the Money ariſing from ſuch Sale ſhall be applied by the ſaid Truſtees in defraying the ſeveral Charges and Expences attending ſuch Sale, the paſſing of this Act, and carrying the ſame into Execution; and in caſe there ſhall be any Surplus of the Money ariſing by ſuch Sale, after all the Charges and Expences aforeſaid are fully defrayed and paid, the ſame ſhall be placed out in ſome of the Publick Funds, in the Names of the ſaid Mayor, Bailiffs, and Commonalty, and the Dividends or Annual Produce thereof ſhall from Time to Time be applied and diſpoſed of in like Manner as the Rents and Profits which ſhall be received by the ſaid Truſtees from the ſaid Marſh are herein-after directed to be paid or applied: Provided nevertheleſs, that the ſaid Truſtees may and are hereby authorized and empowered to ſell out or diſpoſe of and transfer the Stock or Fund in or upon which the ſaid Surplus ſhall be laid out as aforeſaid, either together or in Parts, whenever they ſhall think neceſſary or proper for the Purpoſe of raiſing Money towards defraying any future Charges or Expences of carrying this Act into Execution.

who may ſell Land to defray the Expences.

If any Surplus Money, the ſame to be inveſted in the Funds.

Truſtees may raiſe Money by Mortgage.

III. Provided always, and be it further enacted, That in caſe the ſaid Truſtees ſhall think it more adviſeable to raiſe Money for defraying the Charges and Expences aforeſaid by Mortgage of the ſaid Marſh, or

any Part thereof, it ſhall be lawful, by Writing under the Common Seal of the ſaid Mayor, Bailiffs, and Commonalty, to convey or aſſign the ſaid Marſh, or any Part thereof, to the Perſon or Perſons who ſhall advance ſuch Money, his, her, and their Executors, Adminiſtrators, and Aſſigns, for any Term or Number of Years, ſubject to Redemption upon Repayment of ſuch Money, with Intereſt for the ſame; and every ſuch Mortgage, Conveyance, or Aſſignment, ſhall be valid and effectual, and all the Money ſo to be raiſed ſhall be applied in Manner aforeſaid.

For ſetting out Roads and Ways, and Watering Places.

IV. And be it further enacted, That the ſaid Truſtees ſhall aſcertain, ſet out, and appoint all ſuch private Roads and Footpaths, in, over, and through the new Incloſures, or any of them, as they ſhall think neceſſary, all which Roads ſhall be of ſuch Breadth as the ſaid Truſtees ſhall think proper, and ſhall be made, and from thenceforth for ever thereafter be repaired, upheld and maintained, by and at the Expence of the ſaid Truſtees; and that it ſhall not be lawful for any Perſon or Perſons, after ſetting out and making ſuch new private Roads and Footpaths as aforeſaid, to uſe any other private Roads or Footpaths over the ſaid new Incloſures, or any of them; but nothing in this Act contained ſhall authorize the ſaid Truſtees to ſtop up or divert the Courſe of the preſent publick Carriage Road over the ſaid Marſh: And alſo that it ſhall and may be lawful to and for the ſaid Truſtees to ſet apart any Springs of Water or Watering Places for publick Uſe and Benefit, and to divert or alter the Courſe of any Stream or Current of Water within any Part of the ſaid Marſh, for the conveying of Water to or for the Benefit of the ſeveral Occupiers of the ſaid Lands, ſo as the ſame be not done to the Prejudice or Inconvenience of any of the neighbouring or adjoining incloſed Gounds.

Truſtees to embank and drain the Marſh.

V. And be it further enacted, That the ſaid Truſtees ſhall, and are hereby authorized and directed, to cauſe the ſaid Marſh to be incloſed and fenced off from any other Lands or Grounds, where neceſſary, and alſo to be embanked and drained in ſuch Manner as they ſhall think fit, and that the Banks ſo to be made by the ſaid Truſtees ſhall be of ſuch Dimenſions as they ſhall think proper, for the Purpoſe of preventing the ſaid Marſh from being overflowed either by the Sea or by Land Floods, and the ſaid Truſtees ſhall ſupport and maintain the ſaid Banks from Time to Time; and ſhall cauſe all ſuch Cuts, Channels, Dikes, Drains, Locks, Sluices, Engines, and other Works on, in, through, and out of or from the ſaid Marſh, as they ſhall think proper, for effectually draining, preſerving, and improving the ſame, and keep all ſuch Works in good Repair.

Truſtees may divide the ſaid Marſh into Fields.

VI. And be it further enacted, That the ſaid Truſtees may by interior Fences or Ditches divide the ſaid Marſh into ſuch Number of Fields or Incloſures, of ſuch Proportions, and in ſuch Manner and Form, as they ſhall from Time to Time think proper; and it ſhall be lawful for the ſaid Truſtees from Time to Time to let the Whole, or ſuch Part or Parts of the ſaid Marſh (except ſuch Part as ſhall have been ſold as aforeſaid) from Year to Year, or for ſuch longer Term as they ſhall think proper, not exceeding Twenty-one Years, in Poſſeſſion and not in Reverſion, and may (if they think fit) grant and execute any Leaſe or Leaſes under the Common Seal of the ſaid Mayor, Bailiffs, and Commonalty, of all or

any Part of the Land, before or after the ſame ſhall be divided into Fields or Incloſures as aforeſaid, to any Perſon or Perſons who ſhall be willing to take the ſame, for any Term or Number of Years, not exceeding Twenty-one Years as aforeſaid, under the beſt Yearly improved Rents that can be reaſonably had or got for the ſame, and under ſuch Reſervations, Covenants, Proviſoes, Conditions, and Agreements, as the ſaid Truſtees ſhall think proper, and all ſuch Leaſes ſo granted ſhall be valid and effectual in the Law, to all Intents and Purpoſes; and the Rents and Profits received by the ſaid Truſtees from the ſaid Marſh ſhall from Time to Time (after deducting thereout all Taxes, Charges, and Aſſeſſments already impoſed, or hereafter to be impoſed upon the ſaid Marſh, Fields, or Incloſures, or any of them, or any Part thereof, and alſo all Coſts, Charges, Diſburſements, and Expences attending the Execution of the Truſt repoſed in the ſaid Truſtees by this Act) be paid to and amongſt the Perſons who for the Time being would have been entitled to Graſs or Cattle Gates, or any other Right or Intereſt, upon, in, or from the ſaid Marſh, in the ſame Shares and Proportions as they would have been entitled to in caſe the ſame Marſh had continued to be a Stinted Paſture, in the uncultivated State it was previous to the paſſing of this Act.

Application of the clear Rents and Profits.

VII. Provided always, and be it further enacted, That the ſaid Truſtees ſhall, and are hereby authorized and required, out of the Money to ariſe by virtue of this Act, Yearly and every Year, from and after the paſſing of this Act, to pay to every Perſon who would have been entitled to any of the ſaid Rights of Graſs or Cattle Gates, in caſe this Act had not been made, ſuch Sum of Money as they ſhall judge to be the Annual Value of ſuch Rights reſpectively, immediately before the paſſing of this Act, ſo that the ſame be not leſs in any Year than Two Pounds and Two Shillings, which Payment ſhall be made upon ſuch Day in the Month of *May* or *June*, in every Year, as the ſaid Truſtees ſhall think proper, and ſhall continue until, by the Diviſion of the Rents and Profits of the ſaid Marſh as aforeſaid, a greater Annual Sum ſhall be payable to every ſuch Perſon.

The preſent Value of the Common Rights to be paid to the Owners thereof, until the Profits of the Land exceed ſuch Value.

VIII. And be it further enacted, That the Owners and Occupiers of Lands adjoining the ſaid Marſh, who are obliged, by Reaſon of the Tenure or otherwiſe, to make, ſupport, and maintain the Roads, Fences, and Ditches, between their reſpective Lands and the ſaid Marſh, ſhall and are hereby required, at all Times hereafter, well and effectually to make, ſupport, and maintain the ſaid Roads and Fences, and to cauſe the ſaid Ditches to be ſufficiently widened, and well and effectually ſcoured and cleanſed, and kept free from Weeds and all other Obſtructions; and if any ſuch Owner or Occupier ſhall, for the Space of Twenty Days next after Notice in Writing to him or her given by Order of the ſaid Truſtees, refuſe or neglect to make, or keep and ſufficiently maintain, ſuch Roads and Fences, and to make and keep ſuch Ditches of ſufficient Width and Depth, for carrying off the Waters therein, or to ſcour and cleanſe the ſame, and keep the ſame free from Weeds and all other Obſtructions, then it ſhall be lawful for the ſaid Truſtees to cauſe the ſame to be done, and to levy the Charges thereof by Diſtreſs and Sale of ſuch Goods and Chattels as ſhall then or at any Time thereafter be found on the Land or Ground to which ſuch Roads, Fences, and Ditches ſhall belong,

Obliging Occupiers of adjoining Lands to keep up their Fences.

rendering

rendering the Overplus (if any) after all Charges paid, to ſuch Owner or Occupier when demanded.

For entering the Proceedings of the Truſtees in a Book.

IX. And be it further enacted, That all Accounts, Orders, and Proceedings of the ſaid Truſtees, touching the Execution of this Act, ſhall be entered in a Book, which they are hereby directed to provide and keep for that Purpoſe, and ſuch Accounts, Orders, and Proceedings ſhall be ſigned by the Truſtees who ſhall be preſent, or the major Part of them, when any ſuch Orders were made, or Proceedings had; which ſaid Book ſhall at all ſeaſonable Times be open to the Inſpection of all Perſons intereſted in the ſaid Marſh, who may take Copies thereof, or Extracts therefrom, without Fee or Reward; and ſuch Book, being ſo ſigned as aforeſaid, ſhall and may be produced and read in Evidence in all Suits, Actions, or Controverſies whatſoever, touching any Thing done in purſuance and by Authority of this Act.

Limitation of Actions.

X. And be it further enacted, That no Action or Suit ſhall be commenced againſt any Perſon or Perſons for any Thing to be done in purſuance of this Act until Twenty-eight Days Notice ſhall be thereof given to the ſaid Truſtees, nor after a ſufficient Satisfaction hath been made to the Party or Parties aggrieved, or a Tender thereof; and if any ſuch Action or Suit ſhall be commenced againſt any ſuch Perſon or Perſons, the ſame ſhall be brought within Six Calendar Months after the Fact committed, and not afterwards, and ſhall be laid in the County Palatine of *Lancaſter*, and not elſewhere; and the Defendant or Defendants in ſuch Action or Suit ſhall and may plead the General Iſſue, and give this Act and the ſpecial Matter in Evidence at any Trial to be had thereupon, and that the ſame was done by Authority and in purſuance of this Act; and if the ſame ſhall appear ſo to be done, or that ſuch Action or Suit ſhall be brought before Twenty-eight Days Notice ſhall be thereof given as aforeſaid, or after a ſufficient Satisfaction ſhall be made or tendered to the Party or Parties aggrieved, or after the Time before limited for bringing the ſame as aforeſaid, or ſhall be brought in any other County or Place than as aforeſaid, then the Jury ſhall find for the Defendant or Defendants; and upon ſuch Verdict, or if the Plaintiff or Plaintiffs ſhall be nonſuited, or diſcontinue his, her, or their Action, after the Defendant or Defendants ſhall have appeared, or if upon any Demurrer Judgement ſhall be given againſt the Plaintiff or Plaintiffs, then the Defendant or Defendants ſhall and may recover Treble Coſts, and have ſuch Remedy for the ſame as any Defendant hath for Coſts of Suit in any Caſe by Law.

Saving the Rights of the Corporation of *Lancaſter*.

XI. Saving always to the Mayor, Bailiffs, and Commonalty of the ſaid Vill or Town of *Lancaſter*, all Right and Intereſt whatſoever in or to any Mines of Copper, Lead, and Iron Ores, and in and to all Mines of Coal, and Quarries of Stone and Slate, and all other Manerial Rights whatſoever, which they had and enjoyed, or were entitled to before the paſſing of this Act.

General Saving of Rights.

XII. Saving alſo to the King's moſt Excellent Majeſty, His Heirs and Succeſſors, and all and every other Perſon and Perſons, Bodies Politick and Corporate, his and their Heirs, Succeſſors, Executors, and Adminiſtrators, all ſuch Eſtate, Right, Title, Intereſt, Claim, and Demand,

Demand, (other than the Rights of Graſs or Cattle Gates upon the ſaid Marſh, and all ſuch other Rights as are meant and intended to be barred and deſtroyed by this Act), which they, every, or any of them, could or might have had and enjoyed, or would have been entitled to of or in the ſaid Marſh, in caſe this Act had not been made.

Publick Act. XIII. And be it further enacted, That this Act ſhall be deemed, adjudged, and taken to be a Publick Act; and ſhall be judicially taken Notice of as ſuch, by all Judges, Juſtices, and other Perſons, without ſpecially pleading the ſame.

FINIS.