ANNO SEPTIMO

GULIELMI IV. REGIS.

****

Cap. 7.

An Act for dividing, allotting, and inclosing the Open Fields and Field Lands, Commons, and Waste Grounds in the Parishes of *Ashby* and *Hellington* in the County of *Norfolk*.

[5th *May* 1837.]

WHEREAS there are within the Parishes of *Ashby* and *Hellington* in the County of *Norfolk* divers Open Fields and Field Lands, Commons, and Waste Grounds: And whereas Sir *Charles Henry Rich* Baronet is or claims to be Lord of the several Manors of *Claxton* and *Hellington*, and in respect thereof is Owner of the Soil of the said Common and Waste Ground: And whereas *Abraham Bristow Marshall*, *Jeremiah Woolsey*, *George Barham*, *Richard Goodrum*, and divers other Persons, are the Owners and Proprietors of and interested in the said Open Fields and Field Lands, and Commons and Waste Grounds, in the Parishes of *Ashby* and *Hellington* aforesaid: And whereas an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Pro-* 41G.3.c.109. *visions usually inserted in the Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act was passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to* 1&2G.4.c.23. *amend the Laws respecting the Inclosures of Open Fields, Pasture, Moors, Common and Waste Lands in* England: And whereas it would be advan-

tageous to the Persons entitled to the said Open Fields and Field Lands, Commons, and Waste Grounds if the same were divided and allotted unto and amongst them according to their respective Rights and Interests therein, and inclosed and held in Severalty; but the several Purposes aforesaid cannot be effected without the 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 *Thomas Utton* of *Bracondale* near the City of *Norwich*, Gentleman, and his Successor, to be appointed in manner herein-after mentioned, shall be and he is hereby appointed sole Commissioner for dividing, allotting, and inclosing the said Open Fields and Field Lands, Commons, and Waste Grounds, and for carrying this Act into execution, subject to the Rules, Orders, and Regulations in this Act contained, and also subject to the Rules, Orders, and Directions contained in the said recited Acts, except such as are by this Act varied or altered.

Appointment of Commissioner.

Rules for Interpretation of this Act.

II. And be it further enacted, That where in this Act any Word is used importing the Singular Number or Masculine Gender only, such Word shall be understood to include several Matters as well as one Matter, several Persons as well as one Person, and Females as well as Males; and where the Word "Corporation" shall be used, the same shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Commissioner to make a Declaration.

III. And be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act until he shall have made and subscribed the Declaration following; (that is to say,)

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Trusts, Powers, and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Partiality, to any Person or Persons whomsoever.'

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds; and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Appointment of new Commissioner.

IV. And be it further enacted, That in case the said *Thomas Utton*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, or Inclosure, die, or neglect, refuse, or become incapable to act as a Commissioner in the Execution

of this Act, then and in every such Case it shall be lawful for any Two or more of the Proprietors of or Persons interested in the Lands and Grounds by this Act authorized to be divided and inclosed, by Advertisement in the Newspaper called the *Norfolk Chronicle*, or in some other Newspaper printed or usually circulated within the County of *Norfolk*, and by Writing under their Hands to be affixed on the principal outer Doors of the Parish Churches of *Ashby* and *Hellington* aforesaid upon a *Sunday* immediately before Divine Service, to give Notice of a Meeting to be held within either of the said Parishes of *Ashby* and *Hellington*, or within Eight Miles thereof, at least Fourteen Days before such Meeting, for the Purpose of appointing some Person to be a Commissioner in the Room of the said *Thomas Utton* or of such Person hereafter appointed in his Stead, as the Case may be, at which Meeting it shall be lawful for the Majority in Value, to be ascertained by the Land Tax Assessment, of the Proprietors or Persons interested in the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, or the known Agents or Attornies of any of them who shall be present at such Meeting, by Writing under their Hands to nominate and appoint some proper Person (not interested in the said Division, Allotment, and Inclosure) to be a Commissioner in the Room and Stead of the said *Thomas Utton*, or of such Person appointed in his Stead, so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed shall from and immediately after his Appointment, and making the Declaration prescribed in that Behalf, have such and the like Powers and Authorities for carrying this Act and the said recited Acts into execution to all Intents and Purposes as if he had been named and appointed a Commissioner in and by this Act.

What shall be a Refusal to act by Commissioner.

V. And be it further enacted, That if the said Commissioner shall neglect to attend at One of the first Two Meetings appointed to be held for putting this Act in execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if the said Commissioner shall at any Time after having qualified himself as aforesaid absent himself from any Two successive Meetings appointed to be held as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given him, or left at his usual Place of Abode, under the Hand of the Clerk of the said Commissioner, and such Commissioner not being prevented by Sickness or other reasonable Cause, or if any Commissioner to be nominated and appointed as aforesaid shall not attend and qualify himself at One of the first Two Meetings after his becoming such Commissioner, or shall after having qualified himself as aforesaid wilfully absent himself from any Two successive Meetings, (having first known thereof, or after such Notice, and without such Cause as last aforesaid,) every such Absence or Non-attendance shall be deemed and taken to be a Refusal to act.

Surveyor.

VI. And be it further enacted, That it shall be lawful for the said Commissioner from Time to Time by Writing under his Hand to appoint One or more fit and proper Person or Persons, not interested in the Premises, to be Surveyor or Surveyors for the Purposes of this Act during the Will and Pleasure of the said Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor or Surveyors as often as there shall be Occasion; and it shall also be lawful for the said Commissioner

missioner to allow the Surveyor or Surveyors for the Time being acting under this Act, for his and their Time and Trouble, any Sum not exceeding One Shilling and Sixpence *per* Acre for surveying, measuring, mapping, or planning the said Lands, and also any Sum not exceeding Two Guineas for each and every Day he or they shall be actually and wholly employed in the Business of the said dividing, allotting, and inclosing, exclusive of the Survey aforesaid, which said several Allowances shall be in full Satisfaction for his or their Time and Trouble, and for all travelling and other Expences of every Description, to be incurred by such Surveyor or Surveyors in and about the Execution of this Act.

Surveyor to make a Declaration.

VII. Provided always, and be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act until he shall have made and subscribed the Declaration following; (that is to say,)

'I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, 'execute and perform the several Duties incumbent on me as Surveyor 'by virtue of an Act passed in the Year of the Reign of King '*William* the Fourth, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Partiality, 'Favour, or Affection, Prejudice or Malice, to any Person or Persons 'whomsoever.'

Which Declaration the Commissioner for the Time being, or any Justice of the Peace for the said County of *Norfolk*, is hereby empowered and required to administer and receive; and the said Declaration so made and subscribed by any such Surveyor shall be annexed to and deposited with the Award of the said Commissioner.

Penalty on making false Declaration.

VIII. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration knowing the same to be untrue in any material Particular, shall be deemed guilty of a Misdemeanor.

Appointment of Clerk.

IX. And be it further enacted, That the said Commissioner shall have Power and he is hereby authorized to appoint some fit and proper Person to be Clerk to assist him in carrying this Act and the said recited Acts into execution, and from Time to Time to remove such Clerk and appoint another in his Stead, as to such Commissioner shall seem meet; and such Clerk so to be appointed shall be paid or allowed out of the Money to be raised for putting this Act into execution such Sum or Sums of Money as herein-after mentioned for his Time, Trouble, and Expences in the Assistance to be given by him as aforesaid.

Allowance to Commissioner and Clerk.

X. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and executing the same and the said recited Acts, the said Commissioner and the Clerk to be appointed by him, as herein-before directed, shall respectively be paid for each and every Day they shall travel

travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Three Years next after the passing of this Act, the Sum of Three Guineas, and no more, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Guineas, and no more, for each and every Day they may be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble, and for the several Expences which they shall be put unto during their several Journies and Attendances in the Execution of this Act or the said recited Acts, other than and except the Expences for the Use of the Rooms in which the Meetings shall be holden for carrying this Act and the said recited Acts into execution, and the Costs and Expences of drawing, copying, engrossing, and enrolling the Award of the said Commissioner, and of Notices and Advertisements.

Regulating the Duration of Meetings.

XI. And for regulating the Duration of all Meetings to be holden for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours in all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and any Meeting to be holden for the Purposes of this Act of a less Duration than Eight Hours or Six Hours, as the Case may be, shall be charged only as Half a Day, and the said Commissioner and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioner or his Clerk in which shall be entered the several Days on which the said Commissioner shall hold the said Meetings, and at what Hour the said Commissioner was present thereat, and at what Hour he left or adjourned the same, and such Book shall be signed by the said Commissioner at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Inclosure, their Agents or Attornies, during the several Meetings to be held in pursuance of this Act, and all such Persons shall and may take Copies of or Extracts from such Book without paying any thing for the same: Provided also, that it shall not be lawful for the said Commissioner to retain or pay himself or such Clerk, out of any Monies to be received by him or over which he may have any Control in the Execution of this Act, any Sum or Sums of Money on account of the Allowance herein-before directed to be made to such Commissioner and Clerk respectively beyond One Third of such Allowance as they shall be entitled to as aforesaid, until after the Expiration of Six Calendar Months from the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioner shall be appealed against then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of the said Commissioner or of the said Clerk previous to the Execution of the said Award the Commissioner for the Time being shall, after the Expiration of the Time allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or of such deceased Clerk such Sum of Money as shall appear by the said Accounts to be due thereon.

Proprietors to pay their own Expences at Meetings.

XII. Provided always, and be it further enacted, That all Proprietors and Persons interested in the said Inclosure, their Attornies and Agents, shall

shall pay their own Expences when they or any of them shall attend at any of the Meetings to be held in pursuance of this Act.

Notice and Adjournment of Meetings.

XIII. And be it further enacted, That the said Commissioner shall and he is hereby required to cause Notice to be given in the Newspaper called the *Norfolk Chronicle*, or in some other Newspaper circulated in the said County of *Norfolk*, and also by a Notice affixed upon the principal outer Door of the Parish Churches of *Ashby* and *Hellington* aforesaid on some *Sunday* before Divine Service, of the Time and Place of his First and every subsequent Meeting for executing the Powers hereby and by the said recited Acts vested in him, at least Seven Days before every such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioner shall and may adjourn such Meetings from Time to Time as he shall see Occasion for the Execution of this Act and the said recited Acts: Provided always, that all Meetings for executing this Act shall be held at some convenient Place in either of the said Parishes of *Ashby* and *Hellington*, or within Eight Miles therefrom.

How other Notices are to be given.

XIV. Provided always, and be it further enacted, That all other Notices necessary or requisite to be given by the said Commissioner, except in Cases where such Notices are directed to be given otherwise in and by this Act, shall be given by Advertisement to be inserted in the said Newspaper called the *Norfolk Chronicle*, or in some other Newspaper circulated in the said County of *Norfolk*, and also by affixing such Notices on the principal outer Door of the Parish Church of *Ashby* and *Hellington* aforesaid.

Commissioner to settle Disputes.

XV. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties who now are, or before the Execution of the Award of the said Commissioner may be, interested in the said intended Division, Allotment, and Inclosure, touching their respective Rights and Interests in the said Lands to be divided and allotted by virtue of this Act, or any other Matter or Thing relating to the said intended Division or Allotment, it shall be lawful for the said Commissioner and he is hereby required, upon Examination of Witnesses on Oath, (which Oath the said Commissioner is hereby authorized to administer,) or of any other proper Evidence, to inquire into, hear, and determine the same: Provided always, that nothing herein contained shall authorize or empower the said Commissioner to determine the Title to any Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any of the Parties, contrary to the Possession of such Parties, except in Cases of Encroachment as herein-after mentioned, but in case the said Commissioner shall be of opinion against the Right of the Party so in Possession, he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Party, or recovered from such Party by Ejectment or other due Course of Law.

Power to award Costs.

XVI. And be it further enacted, That in case the said Commissioner shall, upon the hearing or determining of any Claim or Claims, Objection or Objections, to be delivered to him in pursuance of the said first-recited Act, or of this Act, see Cause to award any Costs, it shall be lawful for the said Commissioner and he is hereby empowered, upon

Application to be made to him for that Purpose, to settle, assess, and award such Costs and Charges as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made by the Party or Parties whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who shall be liable to pay such Costs or Charges, shall refuse or neglect to pay the same on Demand, then it shall be lawful for the said Commissioner and he is hereby authorized and required, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and if there shall not be any Goods or Chattels whereon to levy the same, or in case the Party ordered to pay such Costs be a Body Politic, Corporate, or Collegiate, then and in either of the said Cases it shall be lawful for the Party or Parties in whose Favour such Costs shall be awarded to recover the same by Action or Actions of Debt or on the Case, in which Action or Actions it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing Parties to try their Rights at Law.

XVII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioner for the Time being touching or concerning any Claim or Claims of Right of Common, or other Rights and Interests, in, over, and upon, or out of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part or Parts thereof, or touching or concerning any Matter or Thing whatsoever relating to the Division, Allotment, or Inclosure by this Act directed, except where the Determination of the said Commissioner is hereby declared to be final, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatified with any such Determination, to cause an Action to be brought in one of His Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioner shall have been notified in Writing to the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, against whom such Determination shall have been made, or to his, her, or their known Agent or Attorney; and the Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied as aforesaid shall proceed to a Trial at Law of the Matter so determined by the said Commissioner at the next or the second Assizes o be holden for the said County of *Norfolk* after such Action or Actions shall have been so commenced; and the Defendant or Defendants to such Action or Actions shall name, and he, she, and they is and are hereby

hereby required to name, an Attorney or Attornies who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, Objection or Objections, and the Right or Rights thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action or Actions shall be commenced in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Persons and Person, Bodies and Body Politic, Corporate, and Collegiate whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, and which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioner shall act and he is hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, Interest or Interests, thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Action at Law as aforesaid shall be commenced within the Time herein-before limited, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time and in manner herein-before mentioned, then the Determination of the said Commissioner shall be final, binding, and conclusive to all Intents and Purposes whatsoever.

Deaths of Parties not to abate Actions.

XVIII. Provided also, and be it further enacted, That if any of the Parties, Plaintiffs or Defendants, in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened; and if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, respectively, who might have brought such Action against the Person or Persons so dying to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioner with Process for commencing such Action, in the same Manner as the Party or Parties so dying might have been served therewith if living; and it shall thereupon be incumbent on the Heir, Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appoint and defend such Action in the Name or Names of the Person or Persons so dead; and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of every such Action.

Suits between Parties not to delay the Execution of this Act.

XIX. Provided always, and be it further enacted, That if any Suit or Suits shall be commenced or prosecuted touching or concerning the Right, Title, or Interest of any Person or Persons, or Party or Parties, in or to any Lands, Tenements, Tithes, or Hereditaments whatsoever for or in respect of which any Right of Common or other Rights or Interests in, over, and upon the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, shall be claimed, such Suit or Suits shall not impede, delay, or hinder the said Commissioner from

from proceeding in the Execution of the Powers vested in him by this Act or the said recited Acts, but the said Division, Allotment, and Inclosure shall be proceeded in notwithstanding such Suit or Suits; and the said Commissioner shall award the Allotment or Allotments in respect of the Hereditaments to which such Suit or Suits shall relate to the Person or Persons or Party or Parties who shall be in the actual Possession or Enjoyment of such Hereditaments; and the same Allotment or Allotments shall follow the Event of any such Suit or Suits, and may be had and taken by the Person or Persons, or Party or Parties, who upon the Determination of such Suit or Suits shall become entitled to the same.

Deaths of Parties not to delay the Execution of this Act.

XX. And be it further enacted, That if any of the Parties interested in the said Division, Allotment, and Inclosure shall die before the same shall be completed, the Powers and Authorities hereby given to the said Commissioner shall not be thereby determined or suspended, but the said Commissioner shall proceed in the Execution of the Powers given to him by this Act and the said recited Acts in such Manner as he might have done in case such Party or Parties were still living; and the Share or Shares of the Person or Persons so dying shall be allotted to the Person or Persons who shall by Law become entitled to the same, and shall be accepted and taken by him, her, or them, according to the Directions of this Act and the said recited Acts, and he, she, or they shall be liable to the Charges and Expences and the several Provisions of this Act and of the said recited Acts.

Extinguishment of Rights of Common

XXI. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time or Times when he shall think it convenient or proper, by Notice for that Purpose under his Hand, to be affixed on the outer Doors of the Parish Churches of *Ashby* and *Hellington* aforesaid on some *Sunday* before Divine Service, to order the Rights of Common in, upon, and over the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished or suspended either in the whole or in part; and from and after the Time to be mentioned in and fixed by any such Notice all such Rights of Common as shall be thereby directed to be extinguished or suspended shall cease and be extinguished or shall be suspended accordingly, any Law, Usage, or Custom to the contrary notwithstanding.

Power to shorten Boundary Fences.

XXII. And be it further enacted, That for the Purpose of shortening or rendering straight the Boundary Fences between the Lands and Grounds by this Act directed to be divided and allotted and the old inclosed Lands in the said Parishes of *Ashby* and *Hellington*, or between such Allotments and inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, Parish, or Place, it shall be lawful for the said Commissioner, with the Consent of the Lord or Lords, Lady or Ladies of the Manor or Manors in which the Lands are respectively situate, and the Owners of the Lands adjoining to such Boundary Fences, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate, to alter and straighten or shorten the same Boundary Fences, or any of them, or any Part or Parts thereof, and to set out, ascertain, and determine such Boundaries as the said Commissioner shall think proper for the Purposes aforesaid;

and after such Boundaries shall be so set out, ascertained, and determined, the same shall be made, fenced, ditched, or mounded by such Person or Persons, in such Manner, and at such Time or Times, as the said Commissioner shall order and direct, and such Boundaries shall for ever thereafter be deemed and taken to be the Boundaries between the said Allotments and inclosed Lands respectively, or, as the Case may be, between the said Parishes of *Ashby* and *Hellington* and any adjoining Manor, Parish, or Place, any Law, Usage, or Custom to the contrary notwithstanding.

Commissioner to set out Drains, and to enlarge and turn Watercourses.

XXIII. And be it further enacted, That the said Commissioner shall and may set out, appoint, and make such Common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, in, through, over, and upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also enlarge, widen, alter, turn, scour, and cleanse all or any of the present Drains, Ditches, Streams, or Watercourses, as well in, through, and over the same Lands and Grounds as in, through, and over any ancient Inclosures or other Lands and Grounds within the same Parishes of *Ashby* and *Hellington* or either of them, as to him the said Commissioner shall seem proper and necessary, making such Satisfaction to the Proprietors of such ancient Inclosures or other Lands or Grounds, for the Damage done thereby, as the said Commissioner shall think fair and reasonable; and the Costs and Expences of making, enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, shall be raised and levied by the said Commissioner in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution, but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, and in such Manner as the said Commissioner shall in and by his said Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person or Persons from whose Lands the same may be diverted, and of the Person or Persons into whose Lands the same may be turned.

Power to stop up Roads.

XXIV. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footways, in pursuance of this Act or the said first-recited Acts, the said Commissioner shall and he is hereby authorized and empowered, if he shall think it necessary or proper, to continue or discontinue, stop up, divert, turn, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footways passing or leading through or over any of the Lands or Grounds intended to be divided, allotted, and inclosed by virtue of this Act, or passing or leading through or over any of the Lands or Grounds within the said Parishes of *Ashby* and *Hellington*, or either of them; and the Soil of the Roads and Ways so to be discontinued and stopped up shall be deemed and taken to be Part of the Lands and Grounds to be divided, allotted, and inclosed by virtue of this Act, except where such Roads or Ways so to be stopped up shall pass through any ancient Inclosures, in which Case the Soil of such Roads or Ways shall become the Property of the Owners of such ancient Inclosures adjoining the same on either

Side thereof, in equal Moieties: Provided always, that nothing herein contained shall authorize the diverting or allotting of any of the Turnpike Roads leading through the said Parishes of *Ashby* and *Hellington*, or either of them, unless the Consent of the Majority of the Trustees of such Turnpike Road assembled at a public Meeting called for that Purpose on Ten Days Notice be first had and obtained.

Proceedings previously to diverting or stopping up Highways.

XXV. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioner, the said Commissioner shall cause to be affixed, at each End of the said Highway so proposed to be discontinued, stopped up, diverted, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footway is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the Commissioner acting under or by virtue of this Act; and the said Commissioner shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Norfolk* for Four successive Weeks, and shall also cause a like Notice to be affixed on the outer Doors of the Churches of the said Parishes of *Ashby* and *Hellington* on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid the said public Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Norfolk* as is herein-after mentioned.

Persons aggrieved may appeal.

XXVI. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footway should be discontinued, stopped up, diverted, or altered, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine whether old Highways shall be discontinued.

XXVII. And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the public Highway so intended to be discontinued, stopped up, diverted, or altered, or whether the said Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Highway so discontinued, stopped up, diverted, or altered is wholly unnecessary, or may beneficially to the Public be discontinued, altered, or diverted, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal

to

to be paid by the Party appealing to the said Commissioner, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third; but if the said Jury shall return a Verdict that the Highway so discontinued or stopped up is necessary, or that the Highway so diverted or altered could not beneficially to the Public be so diverted or altered, or that the Party appealing would be injured or aggrieved by the said Highway being discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and shall make an Order for restoring the said Highway so discontinued and stopped up, diverted, or altered by the Order of the said Commissioner, to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party or Parties giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioner, and shall be raised by the said Commissioner in such and the same Manner as he is hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

Power to widen Roads, and to compensate adjoining Landowners.

XXVIII. And be it further enacted, That the said Commissioner shall and may and he is hereby authorized and empowered to widen any of the public Roads or Highways where he shall see it necessary within the said Parishes of *Ashby* and *Hellington* or either of them, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands and Grounds adjoining to such Roads (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House), and to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such public Roads or Highways, by allotting and awarding unto the Person or Persons from whom any such inclosed Land or Ground shall be so taken an adequate Part or Parts of the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, and also to make good and substantial Fences on each Side of all such widened public Roads and Highways for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Expences of discontinuing or widening Roads.

XXIX. And be it further enacted, That the Charges and Expences attending the stopping, discontinuing, diverting, or widening of such Roads and the making such Fences as aforesaid shall be raised and paid in such and the like Manner as the Expences of passing and executing this Act are hereby directed to be raised and paid.

Justices may certify Roads in Part.

XXX. And be it further enacted, That when and so soon as any of the public Roads to be set out by virtue of the said in part recited Act and this Act shall be made and completed, it shall be lawful for any Two or more of His Majesty's Justices of the Peace for the said County of *Norfolk*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals any of such Carriage Roads so to be set out to be fully and sufficiently formed, repaired, and completed; and each Road or Roads, or so much thereof as shall in any such Certificate be described or certified, shall thenceforth be supported and kept in repair by such Person and in like Manner as the public Roads within the said Parishes

Parishes of *Ashby* and *Hellington* are or ought to be by Law amended and kept in repair; and every such Certificate shall at the General Quarter Sessions of the Peace to be holden for the County of *Norfolk* next after the Date thereof be filed of Record by the Clerk of the Peace of the said County.

Encroachments within 20 Years to be allotable; beyond 20 Years not to be liable.

XXXI. And be it further enacted, That all Encroachments which shall have been made within Twenty Years last past upon the Commons and Waste Grounds hereby directed to be divided and allotted shall be deemed Part of the said Commons and Waste Grounds to be so divided and allotted; and that all Encroachments which shall have been made more than Twenty Years shall not be liable to the Claim of any other Person against the present Possessor, on the Ground of such Encroachment having been heretofore Part of the said Commons and Waste Grounds; and in case any Dispute shall arise touching any such Encroachments, or the Extent thereof, such Disputes shall be determined by the said Commissioner.

Encroachments to be allotted to Persons in Possession or to be sold.

XXXII. Provided always, and be it further enacted, That the Lands and Grounds comprised in any Encroachment which shall have been made within Twenty Years last past shall (without regard to the Value of the Improvements since made thereon) be allotted to the Person or Persons in Possession thereof so far as he, she, or they shall be entitled to any Allotment of sufficient Value by virtue of this Act, and in that Case the Value of such Encroachments shall, as Circumstances require, be deducted from or deemed a Compensation for the Allotments to which such Person or Persons shall be entitled under this Act; but if the Person or Persons in Possession of such Encroachments shall not be entitled to any Allotment by virtue of this Act, or shall not be entitled to an Allotment equivalent to the Value of such Encroachments, then and in either of those Cases the whole or the surplus Quantities (as the Case may be) of such Encroachments shall be sold by the said Commissioner for such Sum or Sums of Money as he shall think proper to the Person or Persons in Possession thereof, or to any other Person or Persons, and conveyed by him the said Commissioner in Fee Simple to the Purchaser or Purchasers thereof, and the Money arising by such Sale or Sales shall be applied towards defraying the Expences of this Act.

Licensed Encroachments not prejudiced.

XXXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend to prejudice or diminish the Right of any Person or Persons whomsoever to any Encroachments upon the said Commons and Waste Grounds which shall have been made within Twenty Years now last past by virtue of any Licence, Consent, or Grant from the Lord or Lords of either of the Manors before mentioned, and which Licence, Consent, or Grant shall before the passing of this Act have been entered or enrolled in the Court Books of One of the aforesaid Manors; and that no Person or Persons who at the passing of this Act shall be in the Possession of any Encroachment heretofore made by virtue of any such Licence, Consent, or Grant as aforesaid shall at any Time hereafter be liable to the lawful Suit, Claim, or Interruption of any other Person or Persons whomsoever, on the Ground of such Encroachment having heretofore been Part of the Commons and Waste Grounds: Provided always, that no Person or Persons possessing any Encroachment

whatever shall in respect thereof be entitled to any Allotment or Allotments out of the Commons and Waste Ground to be divided and allotted by virtue of this Act, if such Encroachment shall at any Time within Sixty Years now last past have been Part or Parcel of the said Commons and Waste Grounds.

Commissioner to direct the Course of Husbandry.

XXXIV. And be it further enacted, That the said Commissioner shall, so soon after the passing of this Act as conveniently may be, and from Time to Time as he shall think fit, by Writing under his Hand to be affixed on One of the outer Doors of the Parish Churches of *Ashby* and *Hellington* aforesaid, order and direct what Course of Husbandry, and what Stint or Rule of stocking and enjoying, shall be respectively observed and used in, over, and upon the Lands to be divided, allotted, and inclosed by virtue of this Act, until such Time as he shall have completed the said Division, Allotment, and Inclosure, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof, as to the stocking and feeding the Commonable Lands and Fallows or Stubbles upon the said Lands or Grounds, and to make such Recompence for the same as he shall think right, and shall and may make such further Orders and Regulations touching the Conduct of the Farmers and Occupiers within the said Parishes of *Ashby* and *Hellington*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands and Grounds to be divided, allotted, and inclosed, until the said Division, Allotment, and Inclosure shall be completed, as to the said Commissioner shall seem proper and expedient; all which Orders and Regulations shall be binding and conclusive upon all Parties interested, their Farmers and Tenants; and the said Commissioner shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as he shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case for any One Offence, and shall and may settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation, by whom such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sum and Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid shall be recovered and recoverable in the Manner directed in and by the said first recited Act with respect to the levying and Recovery of Penalties.

Satisfaction to be made for growing Crops.

XXXV. And be it further enacted, That the said Commissioner shall and he is hereby authorized, by Writing under his Hand, to ascertain, order, and appoint what Recompence or Satisfaction in Money to the Owner or Owners of any Crops growing upon the Lands or Grounds hereby directed to be divided, allotted, and inclosed shall be made for the said Crops by the Person or Persons to whom the Lands and Grounds on which such Crops are growing shall be allotted, and also what Recompence and Satisfaction in Money shall be paid, and by whom, to any Tenant or Tenants or Occupier or Occupiers of any Land, as well for ploughing, tilling, and manuring any of the Lands and Grounds which shall be divided, allotted, and inclosed by virtue of this Act, for the Benefit and

and Advantage accruing thereby to the Person or Persons to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Tenants, Occupier or Occupiers shall or may sustain by the Loss of their fallowing or waygoing Crops upon the Lands and Grounds by this Act directed to be divided, allotted, and inclosed; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioner, it shall be lawful for the said Commissioner and he is hereby authorized and required to raise and levy the same, for the Use of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

Allotments to Lords of the Manor in compensation for Right of Soil.

XXXVI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to set out and allot unto and for the said Sir *Charles Henry Rich*, as Lord of the said several Manors of *Claxton* and *Hellington*, in lieu of and as a Compensation for his Right of Soil which he as Lord of the said Manors now has or might or of right ought to have had therein in case this Act had not been passed, so much and such Part or Parts of the said Commons and Waste Grounds hereby authorized to be divided, allotted, and inclosed in each of the said Parishes of *Ashby* and *Hellington* as in the Judgment of the said Commissioner shall be equal to One Eighteenth Part of the Commons and Waste Lands in each of the same Parishes.

Allotment to Lord of the Manor in lieu of a Rabbit Warren.

XXXVII. And whereas the Lord of the Manors of *Claxton* and *Hellington* aforesaid is possessed of a Rabbit Warren on *Ashby Common*, Part of the Lands directed by this Act to be divided, allotted, and inclosed; be it therefore enacted, That the said Commissioner shall and he is hereby authorized and required to ascertain, according to the best of his Judgment, the Value thereof, and to set out, allot, and award, unto and for the said Lord of the said Manors, over and above the Allotment herein-before directed to be made to him as Lord of the said Manors of *Claxton* and *Hellington* in lieu of his Right to the Soil of the said Common and Waste of the said Manors of *Claxton* and *Hellington*, such Part and so much of the said Common as in his Judgment shall be equal to the ascertained Value of such Warren as aforesaid, exclusive of the Expences of fencing the same, and of the Expences incidental thereto under this Act.

Allotments for the Poor in the Parishes of Ashby and Hellington.

XXXVIII. And be it further enacted, That the said Commissioner shall in the next place assign, set out, and allot unto the Lord of the aforesaid Manor of *Claxton*, and the Rector, Churchwardens, and Overseers of the said Parish of *Ashby*, such Part of the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed in the said Parish of *Ashby* as in the Judgment of the said Commissioner shall be equal to Five Acres of the Average Value of the said Commons and Waste Grounds; and such Allotment or Allotments, when set out, shall be vested in the Lord of the said Manor, and the Rector, Churchwardens, and Overseers of the Poor of the said Parish of *Ashby* for the Time being, for ever, as Trustees for the Poor of the said Parish; and that the said Commissioner shall also assign, set out, and allot unto the Lord of the Manor of *Hellington* aforesaid, and to the Rector, Churchwardens, and Overseers of

of the Poor of the said Parish of *Hellington*, such Part of the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed in the said Parish of *Hellington* as in the Judgment of the said Commissioner shall be equal to Five Acres of the Average Value of the said Commons and Waste Grounds; and such Allotment or Allotments, when set out, shall be vested in the Lord of the said Manor of *Hellington*, and the Rector, Churchwardens, and Overseers of the Poor of the said Parish of *Hellington* for the Time being, for ever, as Trustees of the Poor of the said Parish; and the said Trustees for the Poor of each of the said Parishes of *Ashby* and *Hellington* in which the said Allotment or Allotments shall for the Time being be so vested, or the major Part of them, are hereby empowered and required, from Time to Time, by Writing under their Hands and Seals, to lease or demise the said Allotment or Allotments to be vested in them to any Person or Persons whomsoever, for any Term or Number of Years not exceeding Twenty-one Years at any One Time, to commence in Possession and not in Reversion or by way of future Interest, and so that in every such Lease there be reserved and made payable to the said Trustees for the Time being, or the major Part of them, by Four equal quarterly Payments in every Year, the best and most improved yearly Rent or Rents that can be reasonably had and obtained for the same, without taking any Income, Fine, or Premium in consideration of granting such Lease or Leases, and so that in every such Lease there be contained the usual Covenants and Stipulations between Lessees and Lessors, and such other Covenants and Stipulations, and such Security for the Performance of the same, as the said Trustees or the major Part of them shall think most proper to be inserted therein; and the Rents and Profits arising from the said Allotment or Allotments shall from Time to Time be laid out in purchasing Fuel, and such Fuel shall be distributed amongst the poor Inhabitants occupying Cottages not exceeding the yearly Value of Four Pounds, situate in the Parish from the Commons or Waste Grounds of which the said Allotment or Allotments shall have been made, in such Proportions and Quantities, in such Manner, at such Times in every Year, and according to such Rules and Regulations as the said Trustees of the Poor of that Parish, or the major Part of them, shall appoint and prescribe for that Purpose, and not otherwise.

Lords of Manors and Rectors may act by Proxy in execution of the Trusts of the said Allotments.

XXXIX. Provided also, That it shall and may be lawful to and for the Lords of the said Manors, and the Rectors of the Rectories for the Time being, to act in execution of the Trusts hereby reposed in them by their respective Agents or Proxies, such respective Agents or Proxies being appointed by Writing under the respective Hands of such Lords and Rectors for the Time being, and producing their respective Appointments at the Time of their acting by the virtue thereof.

Lands to be set out for public Sands and Gravel Pits.

XL. And be it further enacted, That the said Commissioner shall and he is hereby required, before any other Allotment or Allotments shall be made in pursuance of this Act, to set out and allot such convenient Plot or Plots, Part of the Commons and Waste Grounds hereby intended to be divided, allotted, and inclosed, within the said respective Parishes, as he shall think fit, for the public Sand and Gravel Pits, for the Purpose of furnishing Materials for making and repairing the public Roads and Ways in and over the Lands and Grounds hereby intended to be divided,

allotted, and inclosed, and elsewhere in the said Parishes, and for repairing the Footways in the said Parishes, which Plot or Plots of Ground so to be set out shall be separated, inclosed, and kept fenced in such Manner, and by such Person or Persons, and shall be used under such Regulations and Restrictions, as the said Commissioner shall by his Award order and direct; and the said Plot or Plots of Ground so to be set out shall be and the same is and are hereby vested in the Surveyor or Surveyors of the Highways for the Time being of the said Parishes for ever, in Trust for the Uses aforesaid; and such Surveyor or Surveyors shall and may let the same or any Part thereof from Time to Time (subject to such digging of the Materials for the Reparations of the said Roads and Ways) and for the best Rent or Rents that can be obtained for the same, and apply the Rents and Profits thereof in repairing the Highways of the said Parishes.

Allotment of the Residue.

XLI. And be it further enacted, That the said Commissioner shall and he is hereby authorized and required to apportion, divide, set out, and allot the Residue and Remainder of the said Land and Ground by this Act directed to be divided, allotted, and inclosed unto and amongst the several Persons, and Bodies Politic, Corporate, and Collegiate, who at the Time of making such Allotments shall be entitled to any Estate, Right, Title, or Interest therein, in such Quantities, Shares, Proportions, and Situations as by the said Commissioner shall be adjudged and determined to be a just and equitable Compensation and Satisfaction for the several and respective Lands, Grounds, Rights of Common, and Interests therein; and the said Allotments shall be fenced in, and the several and respective Mounds and Fences for dividing and inclosing the same shall be made, and for ever thereafter maintained and supported, in such Manner as the said Commissioner shall in and by his Award order and direct.

Allotments of old Inclosures, with Consent of Proprietors.

XLII. Provided always, and be it further enacted, That it shall be lawful for the said Commissioner, by and with the Consent in Writing at the Request of the respective Owners or Proprietors of any Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parishes of *Ashby* and *Hellington*, or either of them, whether such Owners and Proprietors shall be Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Tenant or Tenants in Fee Simple or for Life, or in Fee Tail, General or Special, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the Lessor or Lessors of any such Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, and with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners or Proprietors as aforesaid who shall be Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, (such Consent to be respectively testified by Writing under the Common Seal of such Bodies Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively,) to consider such Homesteads, Gardens, Orchards, and old inclosed Lands as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed,

inclosed, and to divide and allot the same accordingly; and such Allowance shall be made to the respective Owners and Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or the beneficial Circumstances thereof, as the said Commissioner shall adjudge to be just and reasonable; and the said Commissioner shall and he is hereby authorized and required to set out, allot, and award unto and for the respective Owners or Proprietors of such Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, in lieu thereof, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as he shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned: Provided nevertheless, that no Homesteads, Gardens, Orchards, and old inclosed Lands, held in right of any Church or Chapel or other Ecclesiastical Benefice, shall be considered as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be allotted and inclosed, without the Consent in Writing of the Patron thereof, and of the Bishop of the Diocese in which such Homesteads, Gardens, Orchards, and old inclosed Lands are situate.

Expences of Act to be defrayed by a Rate.

XLIII. And be it further enacted, That all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioner, Clerk, and Surveyor, for Expences, Time, and Trouble, and the Costs and Charges that the said Commissioner shall be put unto in respect of any Appeal against his Decision, or of any Suit or Suits at Law or in Equity that may be instituted by or against such Commissioner in the Execution of this Act, either before or after the Execution of his Award, and all other Costs, Charges, and Expences which may or shall be incurred in and about the carrying this Act and the said recited Acts into execution, shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds to be divided, allotted, and inclosed, in proportion to their several and respective Rights and Interests therein, and the Amount thereof shall be ascertained and settled by the said Commissioner, and shall be paid at such Time and Places, and to such Person or Persons, as the said Commissioner shall by Writing or Writings under his Hand, to be affixed upon the Church Doors of the said Parishes of *Ashby* and *Hellington*, or delivered to such Person or Persons, at least Twenty-one Days before the Time of Payment, order and direct; and the said Commissioner is hereby authorized and required accordingly, at any Time, either before or after the making of his Award, to make One or more Rate or Rates or Assessment or Assessments thereof respectively, under his Hand; and all such Rates or Assessments so made and signed shall be binding and conclusive on all Parties thereby made liable to pay the same, and their respective Executors and Administrators; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Proportion of such Rate or Assessment or Rates or Assessments as aforesaid, within such Time, and to such Person or Persons, and at such Place as the said Commissioner shall appoint, then and in such Case the said Commissioner shall and may, by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, cause the same, together with lawful Interest for the same, to be computed from

from the Day on which the same ought to have been paid as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress or Sale; or it shall and may be lawful to and for the said Commissioner, or any Person or Persons authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person or Persons, and demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith, or otherwise, such Share or Proportion, Shares or Proportions, or such Rate or Assessment or Rates or Assessments, with lawful Interest for the same, to be computed from the Time such Sums of Money shall be ordered to be paid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Empowering Commissioner upon Application, to sell Part of Allotments to defray Expences.

XLIV. And be it further enacted, That it shall be lawful for the said Commissioner, on Application made to him in Writing of any of the Owners or Proprietors for the Time being of Lands, Tenements, or Hereditaments in the said Parishes or either of them, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of such Owners or Proprietors being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other legal Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies, or by any of the said Owners or Proprietors, being Tenants in Tail or for Life or Lives, or on any other Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, to sell any Part of the Allotment to be made by virtue of this Act to the Persons by whom or in whose Behalf any such Application shall be made, for the Purpose of raising a Sum of Money sufficient to defray the proportionable Part of the Costs, Charges, and Expences of obtaining and carrying into execution this Act and the said recited Acts, not exceeding, together with the Sum to be raised by Mortgage as herein-after mentioned, the Proportion of Five Pounds for each Acre of the said Lands so to be allotted, and of fencing and inclosing and subdividing his, her, or their Allotment or Allotments, as shall in and by such Rates or Assessments be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale; and such Sale shall be made by the said Commissioner in such and in the same Manner and subject to the like Rules and Regulations as are mentioned and prescribed in the said first-recited Act in respect of the Sale of Lands towards the defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands or Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioner, and be conveyed by Lease and Release, executed by such Commissioner, to the Purchaser thereof, at the Expence of such Purchaser, unto and to the Use of or in Trust for such Purchaser and his or her Heirs, or as he or she shall appoint, and shall be inclosed and held by such Purchaser in Severalty; and the Receipt of the said Commissioner shall be a good and sufficient Discharge to the Purchaser for the Purchase Money; and such Purchase Money shall be applied by the said Commissioner in or towards defraying such Costs,

Charges,

Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioner such Purchase Money shall be paid to the Parties for whose Allotment such Sales shall be so made respectively; and the Shares of such of them as shall be Tenants in Fee Simple shall be paid to them respectively, and the Shares of the other Proprietors of such surplus Money shall be applied and disposed of in manner herein-after directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of Timber or Wood growing thereon.

Commissioner may borrow Money, and the Parties lending the same shall be repaid, with Interest.

XLV. And be it further enacted, That it shall and may be lawful for the said Commissioner, from Time to Time as he in his Discretion shall think fit, to borrow of any Person or Persons willing to lend the same such Sum or Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the Person or Persons who shall lend or advance any such Sum or Sums of Money shall be repaid the same out of the Monies which shall be raised or collected in pursuance of this Act, with Interest for the same from the Time of lending or advancing each such Sum respectively as aforesaid.

Commissioner to appoint Time for receiving Applications for Situations of Allotments.

XLVI. And be it further enacted, That the said Commissioner shall and he is hereby required to give Ten Days Notice of a Meeting for receiving Applications from the Owners and Proprietors of the Lands and Grounds hereby directed to be divided and allotted, touching the Situation in which they would respectively choose to have their Allotments set out and allotted.

Meetings for objecting to Allotments.

XLVII. And be it further enacted, That when and so often as the said Commissioner shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by him proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioner shall hold a Meeting at some convenient Time and Place, when and where the Proprietors may be informed of such Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of the said Proprietors upon such Inspection be dissatisfied with the proposed Allotments, the said Commissioner shall at such Time and Place, to be appointed by him for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietor or Proprietors against any such Allotment or Allotments, and shall forthwith, or so soon after as conveniently may be, determine the same; and such Determination shall be binding and conclusive on all Parties interested in such Allotment or Allotments.

Directions for fencing Allotments.

XLVIII. And be it further enacted, That the several and respective Allotments to be made of the said Lands hereby directed to be divided, allotted, and inclosed within the said Parishes of *Ashby* and *Hellington*, after the Division thereof, shall within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioner, or within any shorter Space of Time to be appointed by the said Commissioner, be inclosed, and the Fences thereof composed of and planted

with young Quicksets, and such Fences, where the same shall adjoin upon any public or private Road or Way, and in such other Place or Places as the said Commissioner shall think fit, shall be guarded with good and substantial Posts and Rails or otherwise, and with such Ditches on each or either Side thereof as the said Commissioner shall direct or appoint, all which said Fences shall be so planted and guarded as aforesaid by and at the proper Costs and Charges of the respective Persons to whom the same shall be respectively allotted, in such Manner, Shares, and Proportions as the said Commissioner shall in and by his Award order and direct.

Cattle not to be depastured in the Highways for Seven Years.

XLIX. And be it further enacted, That no Person or Persons whomsoever shall graze or keep any Sort of Beast or Cattle whatsoever in or upon any of the Roads or Ways which the said Commissioner shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing of the Award; and all Owners of Lands or Grounds within the said Parishes of *Ashby* and *Hellington*, their and every of their Servants and Labourers, and also all the Peace Officers and Parish Officers of the said Parishes of *Ashby* and *Hellington* for the Time being, are hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent or prohibit the Proprietors of the Lands and Grounds which shall next adjoin the said Roads and Ways from depasturing their Cattle so far as the Frontage of their respective Lands and Grounds may extend.

Power of exchanging.

L. And be it further enacted, That it shall and may be lawful to and for the said Commissioner to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parishes of *Ashby* and *Hellington* in lieu of and in exchange for any other Land, Tenements, or Hereditaments within the said Parishes of *Ashby* and *Hellington*, or any adjoining Parish, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioner, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, or by the Curtesy of *England*, or for Years determinable upon any Life or Lives, by and with the Consent of the Lessor or Lessors thereof, but not otherwise, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every Exchanges and Exchange so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel, or other Ecclesiastical

Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall be situate: Provided also, that all the Costs, Charges, and Expences attending the making of any Exchange shall be paid, borne, and defrayed by the several Persons making such Exchanges, in such Shares and Proportions, and at such Time, and to such Person or Persons as the Commissioner shall by any Writing under his Hand direct or appoint.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

LI. And be it further enacted, That every Person to whom any Copyhold Lands or Tenements shall be allotted in Exchange or upon Partition as aforesaid shall, as soon as conveniently may be, and at all events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioner, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Hereditaments shall be respectively holden, be admitted Tenant of the Copyhold Lands or Tenements so allotted, but in no such Case of any Admission by virtue of this Act shall any Fine, Rent, Heriot, Fees, or other Payment be paid and made to the Lord or Lords, Lady or Ladies of the said Manors respectively, or to his, her, or their Steward or Stewards, save only such reasonable Fees to the respective Stewards on such Admissions as the said Commissioner by his said Award shall think proper to order and direct, over and besides the Stamp Duty payable by Law on each such Admission: Provided always, that no such Exchange or Partition shall be made of Copyhold Lands without the Consent of the Lord of the Manor whereof the same may be holden:

Power to enfranchise Copyholds.

LII. And be it further enacted, That it shall be lawful for the Owner or Owners of any Lands, Tenements, or Hereditaments of Copyhold or Customary Tenure within and Parcel of the said Manors of *Claxton* and *Hellington*, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate, or Collegiate, or a Tenant or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself, or herself, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lord or Lords, Lady or Ladies for the Time being of the said several Manors or either of them, whether such Lord or Lords shall be a Body or Bodies Politic, Corporate, or Collegiate, or shall hold the said Manors or either of them in Fee Simple, or for any limited Estate or Interest, or as Trustees, or otherwise, for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, or Hereditaments, and all Allotments in respect thereof, and for the Extinguishment of the Heriots, Quit Rents, and all other Rights of the Lord or Lords, Lady or Ladies in, over, and upon the same, for a Compensation either in Money or Land, as in any such Contract shall be specified and declared.

Provision where the Enfranchisement shall

LIII. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land the said Commissioner shall and he is hereby

required, upon the Application of any of the Parties interested, and which Application shall be made at the First or Second Meeting to be holden under the Powers of this Act, to set out and allot unto and for the said Lord or Lords, Lady or Ladies of the said Manors or either of them such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, belonging to the Person or Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of the said Commissioner be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties; and in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money the said Commissioner shall and he is hereby required, upon the Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation, according to the Terms which shall be agreed upon between the Parties, and all such Money Payments shall be made to the said Commissioner, whose Receipt shall be an effectual Discharge for the same; and the said Commissioner shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments, or of any Timber or Wood growing thereon, unless the Lord or Lords, Lady or Ladies of the Manor within which any Copyhold Hereditaments shall be enfranchised as aforesaid shall be absolutely and beneficially entitled to such Manor, in which Case (subject to a Deduction for his, her, or their Proportion of the Expences of and attending this Act and carrying the same into execution) the said Commissioner shall pay the Consideration Monies for such Enfranchisements to such Lord or Lords, Lady or Ladies, for his, her, or their own absolute Use; and all such Enfranchisements and Extinguishments, when completed, shall be specified in the Award of the said Commissioner, and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the said Manor, and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and the Contract for the same, and of the Payment of the Consideration or Purchase Money, when the same shall have been paid in Money; and when and so soon as such Allotment and Payments shall be respectively made as the Consideration for such Enfranchisements and Extinguishments as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Free and Common Soccage, freed and absolutely acquitted and discharged from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever, which by or according to the Custom of the Manor whereof such Lands and Hereditaments were Parcel they had or would have been subject to or charged with, or which would otherwise be payable or to be done or performed to the Lord or Lords, Lady or Ladies for the Time being of the said Manor, for or in respect of the same Hereditaments, as Copyhold of the said Manor, if the same Hereditaments had not been so enfranchised; and the same Hereditaments shall (subject to any Charge or Mortgage which may be made under the Authority of the said recited Acts or of this Act) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference

be made for a Compensation in Land;

where the Enfranchisement shall be made for a Compensation in Money.

of

of the Tenure will admit) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

Incapacitated Persons may borrow Money for such Enfranchisement.

LIV. And be it further enacted, That it shall be lawful for the respective Husbands, Guardians, Trustees, Feoffees or Trustees for charitable or other Uses, Committees and Attornies of the Owner or Owners for the Time being of any such Copyhold Lands, Tenements, or Hereditaments so to be enfranchised as aforesaid, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any legal Disability, and for any such Owner or Owners, being entitled for a particular or limited Estate only, to mortgage and charge the Lands, Tenements, or Hereditaments to which such Enfranchisements shall relate with the Monies to be paid as the Consideration for such Enfranchisements, and with Interest thereon, in the same Manner as is by this Act provided for enabling Parties to borrow Money for defraying the Costs of this Act and other Purposes.

Tenure of Allotments.

LV. And be it further enacted, That, subject to the Power of Enfranchisement herein-before contained, the several Lands, Ground, and Hereditaments to be allotted and awarded upon the said Division, Allotment, and Inclosure, to the several Persons, Body or Bodies Politic, Corporate, or Collegiate, interested therein, shall, immediately after the same shall have been so allotted and awarded, be holden by the said several Persons, Body or Bodies Politic, Corporate, or Collegiate respectively, by and under the same Tenures (whether Freehold, Copyhold, or Leasehold), and subject to the same Rents, Payments, Heriots, Fines, Customs, and Services, by, under, and subject to which the several Lands, Tenements, and Hereditaments in lieu or in respect of which the same Lands, Grounds, and Hereditaments shall be so allotted and awarded were respectively held immediately before the passing of this Act, and all such Allotments shall thereupon become Freehold, Copyhold, or of any other Tenure (as the Case may be), and shall be so distinguished in the Award to be made by the said Commissioner any Law or Custom to the contrary notwithstanding.

Persons may sell or mortgage their Estates before Execution of the Award.

LVI. And be it further enacted, That if any Person or Persons hath or have sold, or shall at any Time before the Execution of the Award of the said Commissioner sell, his, her, or their Right, Interest, and Property in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioner and he is hereby authorized and required, upon such Sale being made, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so allotted to him or her as aforesaid, in the same Manner, to all Intents and Purposes, as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid.

LVII. And

Persons having limited Interests may raise Money by Mortgage to defray the Expences.

LVII. And be it further enacted, That it shall be lawful for all Husbands, Guardians, Trustees, or Committees of any of the Owners or Proprietors of any of the Lands and Grounds to be by virtue of this Act divided and allotted, being under Coverture, Infants, Lunatics, Idiots, or Persons beyond the Seas, or otherwise incapacitated, Tenants in Tail or for Life only, or Feoffees for charitable or other Uses, or any of them, by and with the Consent of the said Commissioner, testified in Writing under his Hand and Seal, from Time to Time to charge the Lands and Grounds which shall be so set out and allotted to them respectively by virtue of this Act with any Sum or Sums of Money which the said Commissioner shall in his Discretion judge necessary for the Purpose of inclosing, fencing, and dividing his or their respective Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding, together with the Sums to be raised by Sale as herein-before mentioned, Five Pounds for every Acre of such Lands and Grounds respectively, and for securing the Repayment of such Sum and Sums of Money, with Interest, to grant, mortgage, lease, or demise or otherwise subject the Lands and Grounds so to be set out and allotted as aforesaid, or any Part thereof, to such Person and Persons as shall advance or lend the same respectively, his, her, or their respective Executors, Administrators, and Assigns, for any Term or Number of Years, so as such Grant, Demise, Lease, or Mortgage be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied, and so as in every such Grant, Demise, Lease, or Mortgage which shall be made by or on behalf of any Person or Persons interested or entitled to any such mortgaged Premises for the Term of his, her, or their natural Life or Lives there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his, her, or their respective Life or Lives, in such Manner as that no Person or Persons afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title of such Possession shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise so to be made in pursuance of this Act shall be good, valid, and effectual in the Law for the Purposes thereby intended.

Mortgages may be assigned.

LVIII. And be it further enacted, That all and every Persons and Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act, as a Security for any Sum or Sums of Money by them, him, or her lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed or Deeds, Surrender or Surrenders, Writing or Writings under their, his, or her Hands and Seals or Hand and Seal, to be executed in the Presence of and attested by One or more credible Witness or Witnesses, assign and transfer the same Security or Securities, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all their, his, or her Estate, Right, Title, or Interest and Term of Years then to come and unexpired of, in, and to the same, unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or

Assignees, his, her, or their Executors or Administrators, and all Persons claiming under them or any of them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients, in Law or Equity, for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Securities not to be assigned except by Instruments dulystamped.

LIX. Provided always, and be it further enacted, That no Mortgage or other Security to be made under the Powers of this Act shall be assigned or transferred except by Deed or Instrument in Writing duly stamped according to the Laws in force, in which Deed or Instrument the Consideration for the Assignment or Transfer shall be duly specified and set forth.

Directions for charging Copyhold Lands with Expences.

LX. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Lands, Tenements, or Hereditaments, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the Manor under which such Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of Surrender by way of Mortgage, and shall operate as a Surrender to the Use of the Mortgagee or Mortgagees, and his, her, or their Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgagees, instead of being demised to such Mortgagee or Mortgagees, and his, her, or their Executors, Administrators, or Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act.

Deeds, Wills, &c., not to be affected.

LXI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to revoke, annul, make void, alter, vary, or in anywise affect any Grant, Assurance, Limitation of Use or Uses, Declaration of Trust, or any Deed or Will whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Incumbrance, or other Claim or Demand, out of, upon, or affecting any of the Lands or Grounds hereby directed to be divided and allotted, or any of the Messuages, Lands, or Hereditaments which shall be exchanged or parted with in pursuance of this Act; but that as well the Lands allotted and exchanged as the Hereditaments which shall be assigned in compensation for any other Estate or Right, by virtue of this Act or the said recited Acts, or either of them, shall, immediately after such Allotment, Exchange, or Assignment, remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in exchange as aforesaid shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances, in all respects, as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments, Exchanges, and Assignments shall have been made

should or would have stood severally limited, settled, vested, or subject or liable to, or been held by, in case the same had not been allotted, exchanged, or assigned as aforesaid, and this Act had not been passed, save and except where any other of the Provisions of this Act are to the contrary, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority hereof or of the said Acts.

Separate Allotments to be made for Land held under different Titles.

LXII. And be it further enacted, That when the Proprietor or Proprietors of Lands or other Hereditaments which shall be inclosed, allotted, or exchanged by virtue of this Act shall hold their said respective Lands or other Hereditaments under different Titles and for different Estates, the said Commissioner shall, upon the Request of the said respective Proprietors in Writing under their Hands, ascertain and distinguish the Lands or other Hereditaments held for each of such Estates and under each of such Titles respectively, and shall accordingly in his Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Application of Compensation Money if amounting to 200*l.*

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

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

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

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

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

Where under 20*l*.

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

Alterations may be made in the Allotments before the Award.

LXVI. And be it further enacted, That it shall be lawful for the said Commissioner, at any Time before the executing of his final Award, to make any such Alterations in the Allotments or in the Fences which he may have set out and ordered, or in any of the Orders and Directions relating thereto which he may have made in pursuance of this Act or of the said recited Acts, as he may think right and expedient; and in case any Person or Persons shall be injured by any such Alteration, on account of any Expences he, she, or they may have incurred, or otherwise, the said Commissioner shall ascertain and determine what Recompence shall be made to him, her, or them for such Injury, and shall either pay the Amount thereof out of the Monies to come to his Hands in the Execution of this Act, or shall order and direct by whom and in what Manner such Recompence shall be made; the same to be levied and recovered, in case of Nonpayment, in the same Manner as the Costs and Charges of obtaining and executing this Act may be levied and recovered by virtue of the said recited Act passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, in case the same are raised by a Rate upon the Proprietors.

When Allotments are omitted to be distinguished in the Award, the Defect may be remedied by a separate Instrument.

LXVII. And be it further enacted, That if, from Want of Information or other Cause, the said Commissioner shall have omitted to distinguish in his Award the several Tenures under which any of the said Lands or other Hereditaments are or shall be holden, or the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same are or shall be subject, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments as is hereby required, it shall be lawful for the said Commissioner and he is hereby authorized, at any Time within Twelve Calendar

Calendar Months after the Date and Execution of his Award, upon Request in Writing to him made by the respective Proprietors of any such Allotments, Lands, or other Hereditaments, or other Persons interested therein, or their Agents, to do all such Acts as shall be necessary for supplying such Omission, and for that Purpose to examine Witnesses and proceed as if his Award had not been made, and by any Deed or Instrument under his Hand and Seal to distinguish, ascertain, and set out the Allotments, Lands, and Hereditaments held by different Tenures, and the several Rents, Payments, Fines, Heriots, Customs, and Services to which the same respectively are subject, and also the Allotments, Lands, and Hereditaments held by, for, or under different Estate or Titles respectively, in the same Manner as he is hereby authorized to do in his Award; and every such separate Instrument shall be enrolled and deposited with the Award of the said Commissioner, and shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes whatsoever; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Person or Persons who shall have requested the said Commissioner to make and execute the same, or by his, her, or their Heirs, Executors, or Administrators.

Award to be made and deposited.

LXVIII. And be it further enacted, That as soon as conveniently may be after the said Division and Allotment shall be completed the said Commissioner shall form, draw up, and execute an Award, which, together with a proper Map or Plan thereto annexed, shall within Ten Days after the Execution thereof be delivered to the Clerk of the Peace for the County of *Norfolk*, who is hereby required to deposit and keep the same among the Records of the said County, for the Reception whereof the Fee of Two Guineas, and no more, shall be paid, and for the Inspection and Perusal whereof the Sum of One Shilling and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled within the Intent and Meaning of the said first-recited Act; and a Copy of the said Award, and of the said Map or Plan, signed by the said Commissioner, shall within the Time aforesaid be deposited in the Parish Church of *Ashby* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award, and the said Copy thereof, and any other Copy of the said Award or of any Part or Parts thereof, to be attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matter and Things therein contained in all Courts whatsoever.

Accounts to be audited.

LXIX. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act (to be computed from the Time of the passing thereof) the said Commissioner shall and he is hereby required to make a true and just Statement and Account of all the Sums of Money by him received and expended or applied in the Execution of this Act, and in such Statement or Account shall be particularly stated and specified the several Items and Articles for which

each particular Sum has been paid and disbursed; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by him laid before One of His Majesty's Justices of the Peace for the County of *Norfolk*, not interested in the said Inclosure, to be by him examined and balanced; and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Person acting as Clerk to the said Commissioner; and an Abstract of such Account shall within Fourteen Days after the same shall have been so examined and balanced be published in the *Norfolk Chronicle*, or in some other Newspaper printed and circulated in the said County of *Norfolk*; and no Charge or Item in such Accounts shall be binding on the Parties concerned or valid in Law unless the same shall have been allowed by such Justice, and until such Account, or the Abstract thereof, shall have been so published as aforesaid, subject nevertheless to the Power of Appeal hereinafter contained.

Power of Appeal.

LXX. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of the said recited Acts or of this Act, (other than and except as to the Allotments, and except such Claims, Matters, and Things as are herein-before directed or authorized to be ascertained, settled, tried, or determined by any Issue at Law, or where by any of the Provisions of the said recited Acts or of this Act the Determinations, Acts, or Proceedings of the said Commissioner are directed to be final or conclusive,) he, she, or they may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Norfolk* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner and to the Party or Parties concerned Ten Days Notice in Writing of such Appeal, and the Matter thereof; except with respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and balanced as aforesaid, may be appealed against at any Time within Six Calendar Months after the depositing of the Award with the Clerk of the Peace for the said County of *Norfolk*, on giving to the said Commissioner such Notice as last aforesaid; and the Justices (not interested in the Premises) at the General or Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order and award such Costs as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant of Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by Certiorari or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous and vexatious or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and to be levied in manner aforesaid.

LXXI. Saving

General Saving.

LXXI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Person and Person, Bodies Politic, Corporate, and Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest, Claim and Demand, (other than and except such as are expressly barred and compensated for, or intended to be barred and compensated for and extinguished by this Act,) as they, every or any of them, could or might have had, held, and enjoyed of, in, to, or out of the said Lands authorized to be divided, allotted, and inclosed, or any Part thereof, in case this Act had not been passed.

Act to be printed by the King's Printers.

LXXII. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1837.