ANNO QUARTO

VICTORIÆ REGINÆ.

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Persons interested therein to have the same divided and inclosed, and specific Parts thereof allotted to the Proprietors thereof, to be held in Severalty, and all Rights of Common therein extinguished; but the Purposes aforesaid cannot be effected without the Authority of Parliament: And whereas an Act was passed in the Forty-first
41 G. 3. c. 109. Year of the Reign of King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:* And whereas another Act was passed in the First and Second Years of the Reign of His
1 & 2 G. 4. c. 23. late Majesty King *George* the Fourth, intituled *An Act to amend the Laws respecting the inclosing of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present
Recited Inclosure Acts to form Part of this Act. Parliament assembled, and by the Authority of the same, That the said Two recited Acts passed respectively in the Forty-first Year of the Reign of King *George* the Third, and in the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions thereof, shall, from the passing of this Act, be deemed to be and shall be executed as Part of this Act, except in such Cases wherein the same are hereby respectively repealed or varied, or wherein the same shall be inapplicable to the Purposes of this Act.

Appointment of Commissioner. II. And be it enacted, That *Edward Arden* of *Morton* in the County of *Lincoln*, Gentleman, and his Successor for the Time being, to be elected or appointed in manner herein-after mentioned, shall be Commissioner for carrying this Act and the said recited Acts into execution; and it shall be lawful for the said Commissioner and he is hereby required to divide, allot, and inclose the said Open and Common Fields, Meadows, Commonable Lands, and Waste Grounds, according to the Regulations and Provisions contained in
Qualification of Commissioner. the said recited Acts and this Act: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioner) until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act; and such Declaration shall be in lieu of the Oath or Affirmation required by the said 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.

Penalty on Persons acting not qualified. III. And be it enacted, That if any Person, not having so qualified himself, shall act as a Commissioner, he shall for every such Offence forfeit the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same by Action of Debt or on the Case in any of Her Majesty's Courts of Record at *Westminster*.

Appointment of Commissioner on Vacancy. IV. And be it enacted, That in case the said *Edward Arden*, or any Person to be appointed a Commissioner in his Room by virtue

of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of Two Months to act as such Commissioner, it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of or Persons interested in the said Open and Common Fields, Common Pastures, Common Meadows, and other Commonable Grounds and Waste Lands, who shall attend, either personally or by their respective Agents, at any Meeting to be held for that Purpose, of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure by Advertisement, and also on the Church Door, as herein-after directed, at least Fourteen Days before such Meeting, to appoint by Writing under their Hands some fit Person to be a Commissioner in the Room of the said *Edward Arden*, or of the Commissioner appointed in his Place, and so from Time to Time as often as any such Commissioner shall die, neglect or refuse or become incapable to act.

Appointment of Surveyor.

V. And be it enacted, That it shall be lawful for the Commissioner from Time to Time, by Writing under his Hand, to appoint a fit Person to be a Surveyor for the Purposes of this Act during the Pleasure of the Commissioner, and on every Vacancy in like Manner to appoint some other Surveyor as often as there shall be Occasion: Provided always, that no Person shall act as such Surveyor until he shall have made and subscribed a Declaration in the Words or to the Effect set forth in the Schedule to this Act, which Declaration it shall be lawful for the Commissioner for the Time being, or any Justice of the Peace for the said County of *Northampton*, to administer and receive; and the said Declaration, so made and subscribed, shall be annexed to and deposited with the Award of the Commissioner.

Surveyor to make a Declaration.

Penalty on making a false Declaration.

VI. And be it enacted, That if any Person shall falsely or corruptly make and subscribe a Declaration under the Authority of this Act, knowing the same to be untrue in any material Particular, he shall be guilty of a Misdemeanor.

Old Surveys may be used.

VII. Provided always, and be it enacted, That it shall be lawful for the Commissioner to adopt and make use of any Survey, Admeasurement, or Plan already made of the said Open and Common Fields, Meadows, Commonable Lands, and Waste Grounds hereby authorized to be divided, allotted, and inclosed, or of any Part thereof respectively, without causing a new Survey, Admeasurement, or Plan to be made thereof: Provided also, that nothing in the said first-recited Act or in this Act contained shall require the said Commissioner to make or cause to be made any Survey or Admeasurement of any of the Messuages, Cottages, Gardens, and Inclosures within the Parish aforesaid, but the said Commissioner shall, for the Purposes of the said Division, Allotment, and Inclosure, be at liberty to use and adopt the Plans and Surveys already or which may hereafter be made and used in effecting the Commutation of Tithes in the said Parish, or any other Plans or Surveys he may deem sufficient.

Appointment of Clerk.

VIII. And be it enacted, That it shall be lawful for the Commissioner to appoint a Clerk to assist him in carrying this Act into execution, and from Time to Time to remove such Clerk and to appoint another in his Stead.

No Party interested to be appointed a Commissioner or Surveyor.

IX. And be it enacted, That no Person shall be appointed or shall act as a Commissioner or Surveyor in execution of this Act who shall be interested in the Lands to be inclosed, or who shall be the Agent ordinarily intrusted with the Care, Superintendence, or Management of the Estate of any Person so interested.

Allowances to the Commissioner and Clerk.

X. And be it enacted, That the Commissioner and the said Clerk shall be paid respectively out of the Inclosure Expenses Fund, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, the Sum of Three Pounds and Three Shillings for each Day they shall respectively be engaged as aforesaid for the first Two Years after the passing of this Act, and Two Pounds and Two Shillings *per* Day afterwards; and such Payment shall be in full Satisfaction to the Commissioner and Clerk respectively for their Time and Trouble, and for the several Expences incurred by them during their several Journeys and Attendances in the Execution of this Act, except the Expence of the Rooms in which the Meetings of the Commissioner shall be holden, and the Expence of Appeals or other legal Proceedings against the Commissioner, and the Expence of Notices and Advertisements, and of preparing, proclaiming, and enrolling the Award, and such other like necessary Expences: Provided always, that it shall not be lawful for the Commissioner to retain or pay himself or the said Clerk any Money on account of the before-mentioned Allowances respectively, beyond One Third of the Allowance to which they shall be respectively entitled, until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the 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 Commissioner or of the 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.

For regulating the Duration of Meetings of Commissioner.

XI. And be it enacted, That, in computing the aforesaid Allowance to the Commissioner and Clerk, a Day shall be deemed to consist of Eight Hours during the Period between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and Six Hours during the Period between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March;* and where the Time occupied in going to and attending at and returning from any Meeting to be holden, or on other Business to be transacted, under the Provisions of this Act, shall be of no less Duration than Eight Hours in the first of the Periods aforesaid, or of Six Hours in the second Period,

the same shall be charged as only Half a Day, and the Commissioner and Clerk shall be paid accordingly.

Allowances to Surveyor.

XII. And be it enacted, That it shall be lawful for the Commissioner to pay to the Surveyor to be appointed by him, out of the Inclosure Expences Fund, the Sum of Nine-pence *per* Acre for surveying, measuring, mapping, and planning the Land requiring to be surveyed under the Provisions of this Act, if any such Survey, Map, or Plan shall be required, and the Sum of Two Pounds and Two Shillings for each Day that he shall be actually and wholly engaged in the Duties imposed by this Act, exclusive of the Time he may be engaged in surveying, measuring, mapping, and planning as aforesaid; and such Payments shall be in full Satisfaction for the Time and Trouble of the Surveyor, and for all travelling and other Expences of every Description to be incurred by him whilst engaged in the Duties of surveying under this Act.

Meetings, and Notices thereof.

XIII. And be it enacted, That the Commissioner shall cause Notice to be given, by Advertisement or on the Church Door, of the Time and Place when and where his First and every subsequent Meeting shall be held, (Meetings by Adjournment only excepted,) and he may from Time to Time adjourn any such Meetings; and if at the Time and Place appointed for any such Meeting the Commissioner shall not attend, it shall be lawful for the Clerk to adjourn such Meeting for not more than Twenty-one Days, to be held at the same Place, giving timely Notice thereof to the Commissioner: Provided always, that all Meetings of the Commissioner for executing this Act shall be held within the said Parish or within Five Miles thereof.

Notices how to be given.

XIV. And be it enacted, That all Notices by this Act directed to be given by Advertisement shall be given by Advertisement, to be inserted in some Newspaper or Newspapers printed or usually circulated in the said County; and all Notices directed to be given on the Church Door shall be by Writing under the Hand of the Party giving such Notice, to be affixed on the principal outer Door of the Parish Church of *Barnack with Pilsgate and Southorpe* aforesaid, on *Sunday*, before Divine Service; and all Notices necessary to be given by the Commissioner, the Mode of giving which is not hereby particularly directed, shall be by one of the Methods aforesaid, and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act to the contrary notwithstanding.

For compelling the Attendance of Witnesses.

XV. And be it enacted, That if any Person, having been summoned to testify the Truth upon Oath touching any Matter relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the Commissioner, to defray the Charges of his Attendance, shall not appear before the Commissioner pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to give Evidence touching the Premises, it shall be lawful for

for the Commissioner, upon Proof of such Summons and Tender made before him upon Oath (which Oath he may administer), by Warrant directed to any Person whomsoever, to cause any Sum of Money, not exceeding Ten Pounds, to be levied by Distress upon the Person so neglecting or refusing to appear or give Evidence; and the Money so to be levied shall be considered as Part of the Inclosure Expences Fund, and shall be applied accordingly.

For regulating Distresses.

XVI. And be it enacted, That when in this Act any Sum of Money, whether in the Nature of a Penalty or otherwise, shall be directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the surplus Monies arising from such Sale, after satisfying such Sum of Money, and the Costs and Expences attending the Distress and Sale, shall, on Demand, be rendered to the Party whose Goods and Chattels shall have been distrained.

Proceedings to be entered in a Book.

XVII. And be it enacted, That all the Orders, Proceedings, and Determinations of the Commissioner at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, and shall be signed by the Commissioner, and, being so signed, shall be deemed to be Originals; and all such Books shall be deposited with and kept by the Clerk to the Commissioner, and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any thing done in relation to this Act.

Proprietors to pay their own Expences at Meetings.

XVIII. Provided always, and be it enacted, That the several Persons interested in the said Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act.

Debts to be paid, and Accounts to be audited.

XIX. And be it enacted, That the Commissioner shall not at any Time permit any just Claim or Demand upon him as such Commissioner to remain unpaid for a longer Period than Three Months; and once at least in every Twelve Months during the Execution of this Act, and until the Account of the Commissioner shall be finally allowed, (the first of such Periods to be computed from the Day of the passing hereof,) he shall make out a true and accurate Account of all Sums of Money by him received and expended in the Execution of this Act, and of all Sums due to him for his own Trouble or Expences, and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid; and such Account, when so made out, together with the Vouchers relating thereto, shall be by the Commissioner laid before One or more of Her Majesty's Justices of the Peace acting for the County of *Northampton*, not interested in the Premises, to be by him or them examined and balanced.

Accounts to be published.

XX. And be it enacted, That the Balance of such Account shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the Commissioner, and

and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in some Newspaper printed or usually circulated within the said County; and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in some such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

For shortening Boundaries.

XXI. And be it enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands to be inclosed and the old inclosed Lands in the said Parish, or between such Allotments and inclosed Lands, or any of them, and any adjoining Lands, it shall be lawful for the Commissioner, with the Consent of the Lord of any Manor in which the Lands are situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate, to set out and determine the Boundaries between the Lands to be inclosed and any adjoining Lands lying in the same or in any adjoining Manor as he shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out and determined as aforesaid the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the Commissioner shall direct, and shall for ever thereafter be deemed the Boundaries between the allotted and the old inclosed Lands respectively, or (as the Case may be) between the allotted or old inclosed Lands and such adjoining Lands.

Commissioner to set out Ponds and enlarge and turn Watercourses.

XXII. And be it enacted, That it shall be lawful for the Commissioner to set out and make such common Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, of such Extent and Form and in such Situations as he shall deem necessary, in the Lands to be inclosed, and also to enlarge, cleanse, or alter the Course of and improve any of the present Ditches or Watercourses, Banks or Bridges, as well in and over the same Lands as also in any ancient Inclosures or other Lands within the said Parish, as the Commissioner shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands for the Damage done thereby as the Commissioner shall think just); and the Expences of making and enlarging, altering and cleansing, such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised by the Commissioner in the same Manner as the other Expences of carrying this Act into execution, but all such Ponds, Ditches, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, and maintained by such Persons and in such Manner as the Commissioner shall by his Award direct; provided that no Watercourse be diverted or turned without the Consent in Writing of the Persons from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice of any Person interested in such Watercourse, except with his Consent in Writing.

Power to widen Roads, making Compensation to the Land Owners.

XXIII. And be it enacted, That it shall be lawful for the Commissioner to widen any of the public Roads or Highways, where he shall think it necessary, within the said Parish, to any Extent he shall think fit, not exceeding Forty Feet, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands adjoining such Roads, (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House,) the Commissioner making a full Compensation for the Value of the Land so taken, either by allotting and awarding unto the Persons from whom any such inclosed Land shall be so taken an adequate Part of the Lands to be inclosed, or out of the Inclosure Expences Fund, and also making good and substantial Fences on each Side of all such widened public Roads and Highways in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to stop up or divert Roads.

XXIV. And be it enacted, That in setting out the several public Carriage Roads, Highways, Bridle Roads, and Footpaths in pursuance of this Act or of the first-recited Act, the Commissioner may, if he think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of *Northampton*, discontinue, stop up, divert, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing through any of the Lands to be inclosed or any of the old Inclosures within the said Parish, and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass through allottable Lands shall be deemed Part of the Lands to be inclosed: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road, 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 obtained.

Proceedings previously to stopping up or diverting Highways.

XXV. Provided always, and be it enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered by the Commissioner, or any such Order of Two Justices shall be made, the Commissioner shall cause to be affixed at each End of such public Carriage Road, Highway, Bridle Road, or Footpath, a Notice to the Effect that the same is intended to be discontinued, stopped up, diverted, or altered (as the Case may be) by the Commissioner; and the Commissioner shall also cause the same Notice to be given by Advertisement for Four successive Weeks, and also on the Church Door on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so given, and after such Order as herein-before mentioned shall have been made, such public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, (as the Case may be,) subject however to such Appeal as is hereinafter mentioned.

Appeal to the Quarter Sessions.

XXVI. Provided also, and be it 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 Footpath should be discontinued, stopped up, diverted, or altered, as

the Case may be, within Four Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the Quarter Sessions for the said County, upon giving to the Commissioner or his Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been given as aforesaid, nor on any Hearing of Appeal to go into 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 the Road shall be stopped up, &c.

XXVII. And be it enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether such public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be thereby 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 such public Carriage Road, Highway, Bridle Road, or Footpath is unnecessary, or may, beneficially to the Public, be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such Appeal, and shall award the Costs of resisting the said Appeal to be paid by the Appellant to the Commissioner, and the same shall be recoverable in the same Manner as any Penalties and Forfeitures are recoverable under the said first-recited Act; but if the said Jury shall return a Verdict that such public Carriage Road, Highway, Bridle Road, or Footpath is not unnecessary, or that the same could not, beneficially to the Public, be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved thereby, the said Court shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered, or, in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring the same to its original State, and shall award to the Appellant the Costs of prosecuting such Appeal, and such Costs shall be paid by the Commissioner out of the Inclosure Expences Fund.

Expences of discontinuing or widening Roads.

XXVIII. And be it enacted, That the Expences attending the purchasing of the Soil of such Roads, or the discontinuing, stopping up, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be paid out of the Inclosure Expences Fund.

Commissioner may suspend or extinguish Rights of Common.

XXIX. And be it enacted, That it shall be lawful for the Commissioner, at such Time as he shall think proper, and before the Execution of his Award, by Notice on the Church Door, to order all or any Part of the Right of Common or Feeding in or over the Lands to be inclosed, or any Part thereof to be extinguished, or the Exercise thereof to be suspended during such Time as shall be expressed in such Notice, and from the Time mentioned in such Notice such Rights shall be extinguished or suspended accordingly.

XXX. And

Value of Timber in Allotments to be paid to the Lord of the Manor.

XXX. And be it enacted, That all Timber and other Trees standing and growing upon the said Common or Waste Land shall be allotted along with the Lands whereon the same respectively stand, and shall be deemed the Property of the several Persons to whom such Allotments shall be made, on Payment by them to the Lord of the Manor of *Barnack with Pilsgate and Southorpe* such Sum of Money for the same, to such Persons, and at such Times as the Commissioner shall order; or in case any such Person shall not pay for such Timber and other Trees at the Time to be appointed by the Commissioner, then the Lord of the said Manor may enter upon such Allotments, and cut down and carry away such Timber and other Trees for his own Use.

Sheep not to be kept on Allotments for Seven Years, unless sufficient Fences are made.

XXXI. And be it enacted, That no Sheep or Lambs shall be kept in any of the Allotments to be made by virtue of this Act during the Space of Seven Years next after the Award of the Commissioner shall be made, under a Penalty of any Sum not exceeding Ten Shillings for each Sheep or Lamb so kept, unless the Person so keeping the same shall first, at his own Expence, make and maintain a Fence sufficient to guard the young Quick Fences to be planted or set upon the Allotments adjoining thereto.

Claims to be delivered to the Commissioner.

XXXII. And be it enacted, That all Persons claiming any Interest in any of the Lands to be inclosed shall deliver their respective Claims, in Writing under their Hands, or the Hands of their Agents, unto the Commissioner at the Meetings to be held for that Purpose, stating the several Particulars in respect whereof such Claims are made, and distinguishing Freehold, Copyhold, and Leasehold Property from each other; and no such Claim shall be received by the Commissioner after the last Meeting to be held for that Purpose, of which due Notice shall have been given and so expressed therein, except for some special Cause to be allowed by the Commissioner.

Adjudication upon Claims.

XXXIII. And be it enacted, That after the said Claims shall be so received the Commissioner shall cause Notice on the Church Door to be given of a Time (at least Ten Days distant) and a Place for all Parties concerned to appear before him and show Cause for or against the Allowance or Disallowance of the said Claims, and at such Meeting the Commissioner shall proceed to examine into and determine the same, and shall make such Order therein as to him shall appear just; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they ought to have in the Allotments, the Commissioner shall, by Examination of Witnesses upon Oath (which Oath the said Commissioner is hereby empowered to administer), and by such other Evidence as to him shall seem proper, hear and determine the same, and shall make such Order therein as to the Commissioner shall appear just, which Order shall be final, unless any Party shall be dissatisfied with the Determination of the Commissioner, and shall proceed to try his Rights by an Issue at Law as hereafter mentioned.

XXXIV. And

Commissioner not to determine Titles contrary to Possession.

XXXIV. And be it enacted, That this Act shall not authorize the Commissioner to determine the Title to any Lands, or to determine any Right between any Parties, contrary to the actual Possession of such Parties, (except in respect of Encroachments as hereinafter mentioned,) but in case the Commissioner shall be of opinion against the Rights of the Party in Possession he shall forbear to make any Determination thereon until the Possession shall have been given up by such Party or recovered from him by due Course of Law.

Parties dissatisfied may try their Rights at Law.

XXXV. And be it enacted, That if any Person claiming to be interested in the said Inclosure shall be dissatisfied with any Determination of the Commissioner concerning any Claim or any Right or Interest in or to the Lands to be inclosed, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent, and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes or at the Assizes immediately following such next Assizes which may be holden for the said County after such Action shall have been commenced; and the Defendant in such Action shall, upon being served with the usual Process therein, appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right and Interest 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 shall be commenced, in case the Parties differ); and the Verdict given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court shall set aside such Verdict and order a new Trial to be had; and after such Verdict shall be given, and final Judgment obtained thereon, the Commissioner shall act in conformity thereto, and allow or disallow the Claim thereby determined according to the Event of such Trial; and the Costs attending any such Actions shall abide the Event of the Trial: Provided always, that it shall be lawful for the Parties in any such Action, by Consent and by Order of any of the Judges of any of Her Majesty's said Courts at *Westminster*, to state the Facts of the Case in the Form of a special Case for the Opinion of the Court, and to agree that a Judgment shall be entered for the Plaintiff or Defendant, by Confession or of Nolle prosequi, immediately after the Decision of the Case or otherwise, as the Court may think fit, and Judgment shall be entered accordingly.

If no Action within Time limited, Determination of Commissioner final.

XXXVI. Provided always, and be it enacted, That if no such Action shall be commenced, or if the Plaintiff therein shall not proceed to Trial, within the Time herein-before limited for that Purpose, (unless the Court for sufficient Cause put off such Trial,) the Determination of the Commissioner shall be final.

Parties dissatisfied may state a Case

XXXVII. Provided always, and be it enacted, That in case any such Determination of the Commissioner shall involve a Question of

for the Opinion of one of the Courts at Westminster.

of Law only, and the Parties in difference shall be agreed upon the Facts relating thereto, and whereon such Determination shall have been founded, the Commissioner, at the Request of the Party dissatisfied, such Request to be made in Writing by such Party or his Agent within Ten Days after such Decision, shall direct a Case to be stated for the Opinion of one of Her Majesty's Superior Courts of Law at *Westminster*, which Case shall be settled by the Commissioner, or under his Direction, in case the Parties differ about the same, and may be set down for Argument, and brought before the Court in like Manner as other Cases are brought before the Court; and the Decision of such Court in every Case so brought before it shall be binding upon the Commissioner, and upon all Parties concerned therein: Provided always, that the Costs of stating such Case, and of obtaining a Decision thereon, and otherwise incident thereto, shall be in the Discretion of the Court in or by which the same shall be decided, which may order the same to be taxed by the proper Officer of the Court; and the like Execution may be had for the same as if such Costs had been recovered upon a Judgment of Record of such Court.

Deaths of Parties not to abate Proceedings.

XXXVIII. And be it enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened (the Heir or Devisee or other Person entitled to the Interest of the deceased Party in the Matter in question being served with Process in the Action); and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before Action brought, it shall be lawful for the Person who might have brought such Action to bring the same, within the Time so limited as aforesaid, against such Person as if actually living, and to serve the Commissioner or his Clerk with the usual Process for commencing such Action, in the same Manner as the deceased Person might have been served therewith if living, and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee or Personal Representative of the deceased Person, or other the Person who shall claim the Benefit of such Determination as aforesaid, and on such Process being served such Heir or Devisee or Personal Representative or other Person shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living, and the Rights, Interests, and Claims of all Parties shall be equally bound by the Event of any Action so brought or continued as aforesaid as if the Death of any of the Persons interested therein had not occurred.

Suits not to delay the Execution of the Act.

XXXIX. Provided always, and be it enacted, That no such Difference, Suit, or Proceeding as aforesaid, nor any Difference, Suit, or Proceeding respecting the Title to any Lands, shall impede or delay the Proceedings of the Commissioner in the Execution of this Act, but the Inclosure shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding, and the Allotment to which any such Difference, Suit, or Proceeding respectively shall relate shall

be taken by the Party who, by the Determination of such Difference, Suit, or Proceeding respectively, shall become entitled to the same.

In case of Deaths of Parties before Inclosure completed.

XL. And be it enacted, That if any Person interested in the said Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the Commissioner shall not be thereby determined or suspended, but he shall proceed in the Execution of such Powers and Authorities in such Manner as he might have done in case such Person had not died; and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and fenced by such Person according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

Commissioner to award Costs.

XLI. And be it enacted, That in case the Commissioner, upon the Determination of any Claim or Objection to be delivered to him in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for him, upon Application, to assess and award such Costs as he shall think reasonable to be paid by the Person whose Claim or Objection shall have been disallowed to the Person in whose Favour any Determination shall have been made; and in case any Person liable to pay such Costs shall refuse or neglect to pay the same upon Demand, the Commissioner shall, by Warrant directed to any Person whomsoever, cause the same to be levied by Distress, and if there be no Goods or Chattels whereon to levy such Costs it shall be lawful for the Person in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which Action 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 Commissioner, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Wills and Settlements not to be affected.

XLII. Provided always, and be it enacted, That nothing in this Act contained shall extend to revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance out of or affecting any of the Lands to be inclosed, or any of the Lands which may be exchanged or parted with, in pursuance of this Act, but that as well the Lands allotted and exchanged as the Lands which shall be assigned in partition or in compensation for any other Estate or Right by virtue of this Act, shall, immediately after such Allotment, Exchange, or Partition, be and enure, and the several Persons to whom the same shall be so allotted or given in exchange or partition as aforesaid shall be seised and possessed thereof respectively, to, for, and upon the same Estates, Uses, Trusts, Intents, and Purposes, and subject to the same Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such Allotments, Exchanges, and Partitions shall have been made would have stood limited for or been subject to in case the same respectively had not been allotted, exchanged, or parted with as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

XLIII. And

Persons may sell or mortgage their Common Rights, &c. before Execution of Award.

XLIII. And be it enacted, That if at any Time before the Execution of the Award of the Commissioner any Person shall sell his Right or Interest in the Lands to be inclosed, or any Part thereof, to any Person, the Commissioner shall, upon any such Sale being made, make an Allotment of Land to the Purchaser, or to his Heirs or Assigns, or as he or they shall appoint, in respect of the Right or Interest so sold; and every such Purchaser, or his Heirs, Assigns, or Appointees, shall from the Execution of the said Award hold and enjoy the Land so to be allotted to him, in the same Manner as the Vendor might or ought to have done in case such Sale had not been made; and it shall be lawful for any Person who shall be entitled to any Allotment under this Act to devise, grant, surrender, mortgage, or otherwise convey and assure the same Allotment, or all or any Part of his Interest therein, at any Time before the Execution of the said Award, and every such Devise, Grant, Surrender, and other Assurance shall be of the same Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment to sell, dispose of, and convey the Estate in right of which he may be entitled to such Allotment, separate from and retaining to himself such Allotment, Common Right, and Interest, and the Commissioner is hereby required to award such Allotment accordingly.

Encroachments.

XLIV. And be it enacted, That all Encroachments and Inclosures which shall have been made by any Person from or upon any Part of the Lands to be inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid in respect of the same to or for the Use of the Lord of the Soil, or any other Person, shall be deemed Parcel of the Lands to be inclosed, and shall be divided, allotted, and inclosed accordingly.

Allotment of old Inclosures with Consent of Proprietors.

XLV. And be it enacted, That it shall be lawful for the Commissioner, with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, or old inclosed Lands within the said Parish, whether such Owner or Proprietor shall be a Corporation, Tenant 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 Lives, with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified, in case of a Corporation, by Writing under their Common Seal, or by Writing under the Hand of the Agent of such Corporation, and, in case of an Individual, under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Parcel of the Lands to be inclosed; and such Allowance shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands, on account of the Situation or other

other beneficial Circumstances thereof, as the Commissioner shall adjudge to be just and reasonable, and he shall allot and award unto such Proprietors so much and such Part of the Lands to be inclosed as he shall think reasonable and jnst.

Allotment for Repair of Highways.

XLVI. And be it enacted, That the Commissioner shall, if he shall see fit, allot to the Surveyor for the Time being of the said Parish of *Barnack with Pilsgate and Southorpe*, and to his Successors for ever, such Parcels of the Lands to be inclosed as he shall think necessary and most convenient for supplying Stone and other Materials for the Repair of the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Parish; and such Allotments shall be inclosed and fenced as the Commissioner shall direct, and shall, from the Execution of his Award, be vested in the Surveyor of the Highways within the said Parish for the Time being, in Trust for the Purposes aforesaid; and the Grass and Herbage of such Allotment shall belong to such Persons as the Commissioner shall by his Award direct, and if he shall make no Direction then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits towards the Repairs of the public Roads or Highways within the said Parish, and the said Surveyor shall account for such Rents and Profits in the same Manner as he is by Law accountable for other Monies that shall come to his Hands in the Capacity of Surveyor of the Highways, and shall be subject to the like Penalties for the Neglect thereof.

Allotment to be set out for Recreation.

XLVII. And be it enacted, That the Commissioner shall allot and award unto the Churchwardens and Overseers for the Time being of the said Parish, out of the Common and Waste Lands to be inclosed, One or more Piece or Pieces of Land, not exceeding Three Acres in the whole nor less than Two Acres, in the most appropriate Situation, as a Place of Exercise and Recreation for the Inhabitants of the said Parish and Neighbourhood; and such Allotment shall be held by the Churchwardens and Overseers for the Time being of the said Parish for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Churchwardens and Overseers, in such Proportions and Manner as shall be directed by the Award of the Commissioner, out of the Rents to be received for the Herbage of the said Allotment, or out of the Poor Rates of the said Parish, or otherwise; and the Grass and Herbage growing upon such Allotment may be from Time to Time let by such Churchwardens and Overseers, and the Rent which shall be received by them for the same shall be by them from Time to Time applied, in the first place, in maintaining and repairing the Fences of the said Allotment, and, subject thereto, in aid of the Rates for the Repair of the public Highways in the said Parish.

Allotment in lieu of Freeboards.

XLVIII. And be it enacted, That in all Cases where any of the Lands by this Act intended to be inclosed shall adjoin any Freeboard, Screed, or Parcel of Land belonging to any other Parish or Place, which shall run into or be intermixed with the Lands intended to be inclosed

inclosed by virtue of this Act, the Commissioner shall allot unto the Owner of the aforesaid Freeboard, Screed, or Parcel of Land such a Parcel of Land as shall be equal in Value (Quantity, Quality, and Situation considered) to such Freeboard, Screed, or Parcel of Land as aforesaid; and the Fences belonging to such Allotment shall be made and maintained by the Person to whom the same shall be so allotted as aforesaid; and after such Allotment shall be made such Freeboard, Screed, or Parcel of Land shall be deemed to be within the Parish of *Barnack with Pilsgate and Southorpe*, and shall be subject to pay all Rates, Dues, and Taxes whatsoever in aid of the said Parish.

Allotment to the Lord of the Manor for Right of Soil.

XLIX. And be it enacted, That the Commissioner shall allot and award unto the Lord for the Time being of the Manor of *Barnack with Pilsgate and Southorpe* so much and such Part of the Lands to be inclosed as shall, in the Judgment of the Commissioner, be equal in Value to One Fifteenth Part of such Commons and Waste Lands, Quality and Value considered, in lieu of his Right and Interest in the Soil of the said Commons and Waste Lands, exclusive of any other Allotments which may be made to such Lord in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds.

Allotment to the Rector in lieu of Glebe and Common Rights.

L. And be it enacted, That the Commissioner shall allot and award unto the Rector of *Barnack with Pilsgate and Southorpe* aforesaid such Parcels of the Lands to be inclosed as in his Judgment shall be a full Equivalent and Compensation for the Glebe Lands and Rights of Common respectively belonging to the said Rector in and over the said Lands.

Allotment of the Residue.

LI. And be it enacted, That after the several Allotments hereinbefore directed shall have been set out and made the Commissioner shall divide, allot, and award all the Remainder of the Lands to be inclosed unto and amongst the several Owners and Proprietors thereof, and Persons who shall be entitled to any Estate, Right, or Interest therein, in such Shares and Proportions as the Commissioner shall adjudge and determine to be proportionate to the Value of their respective Rights and Interests therein.

Applications for Situations of Allotments.

LII. And be it enacted, That the Commissioner shall appoint a Meeting for receiving Applications from the several Proprietors of the Lands to be inclosed, touching the Situation in which they would respectively choose to have their Allotments set out, and shall give Ten Days Notice of the Time and Place of such Meeting by Advertisement, or on the Church Door.

For determining Objections to Allotments.

LIII. And be it enacted, That as soon as the Commissioner shall have ascertained the respective Rights and Interests of the several Parties interested in the Lands to be inclosed, and also the Allotments by him proposed to be made to such Parties respectively in lieu of such Interests, he shall hold a Meeting, of which Ten Days Notice shall be given by Advertisement or on the Church Door, where such Parties may be informed of the Situation of such intended Allotments, and see the same delineated upon a Map or Plan to be produced for

their Inspection; and if any of such Parties, upon such Inspection, shall be dissatisfied with the proposed Allotments, the Commissioner shall at such Meeting, or at some other Meeting to be appointed by him for that Purpose, receive Statements in Writing of Complaints and Objections thereto, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be final.

Allotments to be fenced.

LIV. And be it enacted, That the several Allotments to be made in pursuance of this Act (except the Allotment to the Rector, Surveyor, and Churchwardens and Overseers respectively) shall be inclosed, ditched, and fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the Commissioner shall by his Award or any Writing under his Hand direct; and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the Commissioner shall by his Award direct.

Rectors Allotment to be fenced at the general Expence.

LV. And be it enacted, That the Allotments to be made to the said Rector in respect of Glebe Lands belonging to the said Rectory shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence in the Judgment of the Commissioner; and the Expence attending the inclosing and fencing of the same shall be discharged out of the Inclosure Expences Fund; and all such Inclosures and Fences, when made, shall for ever thereafter be kept in repair by the said Rector, or by the Persons for the Time being entitled in Possession to the said Allotments.

Power to Rector to lease his Allotment.

LVI. And be it enacted, That it shall be lawful for the Rector for the Time being of the Parish of *Barnack with Pilsgate and Southorpe* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Patron of the said Rectory for the Time being, such Consent to be had previous to the Execution of such Indenture by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be made to such Rector in right of his Rectory, to any Person whomsoever, for any Term not exceeding Twenty-one Years, to commence within Twelve Months next after the passing of this Act; so that the Rent for the same shall be thereby reserved to the Rector for the Time being by quarterly Payments in every Year; and so that there be thereby also reserved and made payable to such Rector the best and most improved Rent that can be reasonably gotten for the same, without taking any Fine, Foregift, or other Consideration for granting such Lease; and so that no such Lessee be made dispunishable for Waste by any express Words to be contained in such Lease; and so that there be inserted in every such Lease Power of Re-entry on Nonpayment of the Rent within a reasonable Time, to be therein limited, after the same shall become due; and so that a Counterpart of each such Lease be duly executed by the Lessee: Provided always, that whenever any such Lease shall by any Means become forfeited or void, or be surrendered before the

the Expiration, by Effluxion of Time, of the Term thereby granted, then and so often as the same shall happen it shall be lawful for such Rector for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the Rectory, to grant a new Lease of the Land so demised for such Term of Years as shall at the Time of such Avoidance be unexpired of the original Term, subject nevertheless to the Provisoes and Conditions contained in the original Lease, and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act, or any Law or Usage, to the contrary notwithstanding.

The Allotments to be of the same Tenure as the Lands in lieu of which they were made.

LVII. And be it enacted, That all such Lands as shall be given in exchange or on partition or be allotted by virtue of this Act shall be held by the Person to whom they are given in exchange or on partition or allotted under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands were given in exchange or on partition or allotted would have been held in case this Act had not been passed; and the Lands given in exchange or on partition or allotted in respect of Freeholds shall be deemed Freehold; and the Lands given in exchange or on partition or allotted in respect of Copyhold or Customary Lands shall be deemed Copyhold or Customary Lands, and shall be held of the Lord of the same Manor, under the same Rents and by the same Customs and Services as the Copyhold or Customary Lands in respect of which they may be given in exchange or on partition or allotted were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Exchanges, Partitions, or Allotments shall be made now do; and the Lands given in exchange or on partition or allotted in respect of Leasehold Lands shall in like Manner be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act; any Law or Usage to the contrary notwithstanding.

Power for Commissioner to make Alterations in the Allotments before the Award.

LVIII. And be it enacted, That it shall be lawful for the Commissioner, at any Time before the Execution of his Award, to make any Alterations which he may think right and expedient in the Allotments or in the Fences which he may have set out and ordered, or in the private Roads over such Allotments, or in any of the Orders or Directions relating thereto which he may have made in pursuance of this Act; and in case any Person shall be injured by any such Alteration, on account of any Expences he may have incurred, or otherwise, the Commissioner shall ascertain and determine what Recompence shall be made to him for such Injury, and shall either pay the Amount thereof out of the Inclosure Expences Fund, or shall direct by whom and in what Manner such Recompence shall be made, and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

LIX. And

Power of Exchange.

LIX. And be it enacted, That it shall be lawful for the Commissioner to allot and award any Lands within the said Parish in exchange for any other Lands within the said Parish, or any adjoining Parish, Township, or Place, provided that all such Exchanges be specified and declared in the Award of the Commissioner, and be made with the Consent in Writing of the Owner of the Lands so exchanged, whether such Owner shall be a Corporation, or a Tenant 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 Lives, (with the Consent of the Lessor 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 shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, 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 every such 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 held in right of any Church or Chapel or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands shall be situate: Provided also, that all Costs and Expences attending the making and completing of any Exchanges shall be borne by the several Parties making such Exchanges, in such Manner and in such Proportions as the Commissioner shall by his Award direct, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power to apply Compensation Money coming to Parties under Disability towards Inclosure Expences and substantial Improvements.

LX. And be it enacted, That when any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, 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 whose Lands 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 to be settled to the same Uses, it shall be lawful for the Commissioner out of such Money to defray the Proportion, if any, of the Inclosure Expences which shall be charged upon any of the Lands of the respective Parties in Possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also to defray the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall, in the Judgment of the 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 Parties.

Investment and Application of the Surplus when amounting to 200*l.*

LXI. And be it enacted, That if the Surplus of any such Monies 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, to be placed to his Account there *ex parte* "The Commissioner for executing this Act," pursuant to the Method prescribed by an Act passed in the First Year of 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 Parties who would have been entitled to the Rents and Profits of the said Lands, be applied to either of the following Purposes; (that is to say,)

1 G. 4. c. 35.

The Redemption or Discharge of the Land Tax, or of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses or Trusts:

The Purchase of other Lands to be conveyed or settled upon the like Uses or Trusts, or such of them as shall be then existing undetermined or capable of taking effect.

Payment of Dividends meanwhile.

LXII. And be it enacted, That in the meantime and until such Application shall be made the said Money may, by Order of the said Court, to be made upon the like Petition, 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 of other Government or Real Securities, and the Dividends or Interest of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so to be purchased, conveyed, and settled.

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

LXIII. And be it enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees, in Cases of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the 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 said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in 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 Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the Commissioner,

missioner, 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 therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England*, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

When under 20*l.*

LXIV. And be it enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds, the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased or exchanged for their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, for the Use and Benefit of the Parties respectively entitled thereto.

Expences of Inclosure to be borne rateably.

LXV. And be it enacted, That the Expences of the Inclosure, that is to say, the Costs and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the Commissioner, Clerk, and Surveyor for Expences, Time, and Trouble, and the Costs and Expences of preparing and enrolling the Award of the Commissioner, and all Costs and Expences that the Commissioner shall be put to in respect of any Appeal against his Decision, or of any Suit at Law or in Equity that may be instituted by or against him as Commissioner in the Execution of this Act, either before or after the Execution of the said Award, and all other Costs and Expences whatsoever of carrying this Act into execution, (so far as the same relate to the Division, Allotment, and Inclosure hereby authorized to be made,) shall be borne and defrayed by the several Persons interested in the Lands to be inclosed, (except the said Rector, Surveyors of Highways, Churchwardens, and Overseers, in respect of the Allotments herein-before authorized or directed to be made to them respectively,) in such Shares and Proportions, and shall be paid at such Time and Place, and to such Persons, as the Commissioner shall, by Notice on the Church Door, or delivered to the respective Persons liable to the Payment of such Costs and Expences, at least Fourteen Days before the Time appointed for such Payment, order; and the Commissioner shall from Time to Time make Estimates of all such Costs and Expences, and raise the Amount of such Estimates, at such Times as he shall deem necessary or proper, either before or after the Execution of his Award.

Remedies in case of Non-payment.

LXVI. And be it enacted, That if any Person shall refuse or neglect to pay his Proportion of such Expences within the Time and to such Person as the Commissioner shall appoint, it shall be lawful for the Commissioner to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid, by Action at Law in his own Name, in any of Her Majesty's Courts of Record at *Westminster*; or it shall be lawful for him, by Warrant directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress;

or

or it shall be lawful for the Commissioner, or any Person authorized by him, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise the same, and receive the Rents and Profits thereof, until thereby or otherwise such Share or Proportion, with lawful Interest as aforesaid, and also all the Costs and Expences attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Power for Commissioner to borrow Money.

LXVII. And be it enacted, That if before the said Monies hereinbefore authorized to be raised by the Commissioner can be raised and received by him, he shall find it necessary or expedient to obtain by Loan any Money for or towards defraying the said Expences, it shall be lawful for him to borrow and take up at Interest such Sums of Money as he shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the Commissioner, with Interest for the same, out of the Monies to be raised and received by him by any of the Means aforesaid.

Monies may be recovered after the Execution of the Award.

LXVIII. Provided always, and be it enacted, That if at the Time of the Execution of the Award there shall remain due from any Person any Sum of Money which shall have been ordered to be paid by virtue of this Act, it shall be lawful for the Commissioner and he is hereby required to levy and raise the same in like Manner as he might have done before the Execution of his Award.

Direction for charging Copyhold Land with Expences.

LXIX. Provided always, and be it enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Land shall, instead of being demised to such Mortgagee, and his Executors, Administrators, and Assigns, for a Term of Years, as mentioned and prescribed in and by the said first-recited Act, 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 and his 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 Mortgages.

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

LXX. And be it enacted, That it shall be lawful for the Commissioner, on Application made to him in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees, or Attornies of or for any of such Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said 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 any such Allotment for raising a Sum of Money sufficient to defray the proportionable Part of the Expences which shall in such Rates be charged upon such Parties,

and

and of the Expences of making and completing such Sale: Provided always, that it shall not be lawful for any Proprietor of an Allotment to raise by any such Sale, or by Mortgage and Sale, any greater Sum of Money for the Purposes aforesaid than such Proprietor might have borrowed or charged upon his Allotment for such Purposes by virtue of the said first-recited Act, reckoning Five Pounds for each Acre thereof: Provided further, that in all Cases in which the Money so raised by any such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid, it shall be lawful for the Proprietor, Part of whose Allotment shall be sold as aforesaid, to charge his Allotment with any Sum not exceeding the Difference.

Sales to be made according to the first-recited Act.

LXXI. And be it enacted, That such Sales shall be made by the Commissioner in the same Manner and subject to the same Regulations as are prescribed by the said first-recited Act in respect to the Sale of Land towards 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 Commissioner, and be conveyed by Lease and Release, executed by him at the Expence of the Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty: Provided always, that nothing herein contained shall enable the Commissioner to convey any Allotments set out by him as Copyhold of the said Manor of *Barnack with Pilsgate and Southorpe* by Lease and Release as Freehold, but such Copyhold Allotments shall be conveyed by the Commissioner by Indenture of Bargain and Sale, and shall be held by the Purchaser thereof by, under, and subject to the same Rents, Suits, and Services as such Allotment would have been held in case no such Sale had been made.

Application of Purchase Monies.

LXXII. And be it enacted, That the Receipt of the Commissioner shall be a sufficient Discharge to the Purchaser for the said Purchase Money, and such Purchase Money shall be applied by the Commissioner in or towards defraying the Costs and Expences for raising which such Sale shall have been made; and the Surplus, if any, shall be paid to the Parties from whose Allotments such Sale shall have been 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 by this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon.

Award to be deposited in the Hands of the Clerk of the Peace.

LXXIII. And be it enacted, That, as soon as conveniently may be after the said Inclosure shall be completed, the Commissioner shall draw up and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday*, by affixing a Proclamation on or near the outer Door of the Church of the said Parish previously to Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered

sidered as complete; and within Three Calendar Months after the Commissioner shall have so made and executed the said Award he shall cause the same, together with one of the reduced Plans herein-after directed to be made annexed thereto, to be delivered to the Clerk of the Peace for the County of *Northampton*, who is hereby required to deposit and keep the same among the Records of the said County, so that Recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from the Delivery thereof to the said Clerk of the Peace, be deemed to be enrolled according to the Directions and within the Meaning of the said first-recited Act.

Copy of the Award to be deposited in the Parish Church.

LXXIV. And be it enacted, That a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, with the other of the reduced Plans herein-after directed to be made, shall, within the Time aforesaid, be deposited in the Parish Church of *Barnack with Pilsgate and Southorpe*, and there kept in a Box to be provided for that Purpose by the Commissioner; and the said Award, and the said Copy thereof, and any other Copy of the said Award or of any Part thereof, 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 thereafter be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Reduced Plan to be annexed to Award and a Schedule of the old Inclosures.

LXXV. And be it enacted, That the Commissioner shall cause Two reduced Plans of the said Parish to be drawn on Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award, and such other Matters and Things as the Commissioner shall think fit, shall be fairly and distinctly delineated and expressed; and the Commissioner shall sign the said Plans, one of which shall be annexed to the said Award, and the other shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the Parish Church of *Barnack with Pilsgate and Southorpe* aforesaid; and the Commissioner shall make and annex to the said Award a Schedule describing and setting forth the Quantities of all the Homesteads, Gardens, Orchards, and ancient Inclosures in the said Parish, which said Plans, or either of them, shall be admitted as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Power of Appeal.

LXXVI. And be it enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, except as to the Allotments, and except as to such other Determinations as are by this Act directed to be final, and except such Cases wherein an Issue at Law shall be tried as herein-before is mentioned, he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the Commissioner and to the Party concerned Ten Days previous Notice in Writing of such Appeal and of the Matter thereof (except with respect

respect to the Accounts of the Commissioner, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within One Month after the Enrolment of the Award, on giving to the Commissioner such Notice as last aforesaid); and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs and Damages as to them shall seem reasonable; and in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, they shall award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner aforesaid, and the Costs and Damages which shall be so awarded shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

Order on Appeal to be final.

LXXVII. And be it enacted, That every Order and Determination of the said Justices upon every such Appeal shall be final, and shall not be removed or removable by Certiorari, or any Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Saving of Manorial Rights.

LXXVIII. Provided always, and be it enacted, That nothing in this Act shall prejudice or affect the Right, Title, or Interest of the Lord of the said Manor of *Barnack with Pilsgate and Southorpe* to any Manorial Rights, Privileges, Jurisdiction, Services, or Profits incident or appertaining to the said Manor, except the Right of Soil in the Commons and Waste Lands hereby directed to be inclosed.

General Saving.

LXXIX. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, and Collegiate, their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, 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 or any of them could or might have had, in, to, or in respect of the Lands hereby authorized to be divided, allotted, and inclosed, in case this Act had not been passed.

Interpretation Clause.

LXXX. And be it enacted, That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,) Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number; Words importing the Masculine Gender only shall extend to Females as well as Males; the Word "Month" shall mean Calendar Month; the Word "Lands" shall include Tenements and Hereditaments; the Expression "Lands to be inclosed" shall be understood to mean the Lands by this Act authorized to be divided, allotted, and inclosed; the Expression "the Inclosure Expences Fund" shall be understood to mean the Monies by this Act authorized

rized to be raised for defraying the Expences of obtaining this Act, and carrying the same into execution; the Expression "the Commissioner" shall mean the Commissioner appointed, and for the Time being acting, by virtue of this Act.

Act as printed by Queen's Printers to be Evidence.

LXXXI. And be it enacted, That this Act shall be printed by the several Printers to the Queen'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.

SCHEDULE referred to in the foregoing Act.

Form of Declaration by Commissioner or Surveyor.

I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner [*or* Surveyor, *as the Case may be*,] by virtue of an Act passed in the Year of the Reign of Her Majesty Queen Victoria, intituled [*here set forth the Title to this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1841.