

ANNO PRIMO

VICTORIÆ REGINÆ.

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Commons and Commonable and Waste Lands and Grounds if the same were divided and allotted unto and among them according to their respective Rights and Interests therein, and inclosed and held in Severalty; but as 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 Queen'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 *Charles Carter* the elder, of *Bideford* in the County of *Devon*, Gentleman, and *William Gribble* of *Barnstaple* in the County of *Devon*, Gentleman, and their Successors, to be appointed as herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing and otherwise improving the said Commons and Commonable and Waste Lands and Grounds, and for carrying this Act into execution, in the Manner, and subject to the Rules, Orders, and Regulations herein contained, and also subject to the Powers and Provisions of the said recited Acts, except where the same are hereby varied or altered.

Appointment of Commissioners.

II. 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,)

Commissioners to make a Declaration.

'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 Her Majesty Queen *Victoria*, 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 Umpire.

III. And be it further enacted, That the said Commissioners shall (after having made and subscribed the Declaration herein-before prescribed, and before they proceed to any other Business touching the Execution of this Act or the said recited Acts,) and they are hereby authorized and required to appoint some fit and proper Person (not interested in the said Inclosure) to be an Umpire between them; and in case such Person, or any other Person to be appointed as Umpire for the Purposes of this Act or the said recited Acts, shall die, or refuse or neglect for the Space of One Calendar Month to act, or shall become incapable of acting as such Umpire, the said Commis-

sioners shall and they are hereby required forthwith to nominate and appoint another Person (not interested in the said Inclosure) to be an Umpire for the Purposes of this Act and the said recited Acts; and when the said Commissioners shall differ or disagree in Opinion touching any Matter or Thing to be done in the Execution of this Act or the said recited Acts, then the Matter upon which such Difference shall or may arise shall be settled and determined by such Umpire, whose Determination in Writing shall be binding and conclusive upon the said Commissioners and on all others as far as the Judgment and Determination of the said Commissioners would in such Case have been binding and conclusive; and in case any such Umpire shall neglect to settle and determine any such Difference, after the same shall have been referred to him by the said Commissioners, and a written Notice under the Hands of the said Commissioners, or One of them, shall have been served upon him or left for him at his last or usual Place of Abode, requiring him to settle such Difference within Thirty Days from the Service of such Notice, such Neglect shall be and be deemed and taken to be a Refusal to act within the Intent and Meaning of this Act; and for the Purpose aforesaid, but not for any other Purpose, such Umpire shall have and he is hereby invested with the same Powers and Authorities as by this Act and the said recited Acts are given to or vested in the said Commissioners.

Umpire to make a Declaration.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as such Umpire 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 an Umpire by virtue of an Act passed in the Year of the Reign of Her Majesty Queen *Victoria*, 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.'

Which Declaration it shall be lawful for the said Commissioners or either of them, or any Justice of the Peace for the said County of *Devon*, to administer or receive; and such Declaration so made and subscribed shall be annexed to and deposited with the Award of the said Commissioners, and an Office Copy thereof shall be admitted as legal Evidence.

Appointment of new Commissioners.

V. And be it further enacted, That in case the said *Charles Carter*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect or 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 the Lord of the said Manor, within Fourteen Days after such Death, Refusal or Incapacity to act shall be made known to him, to nominate and appoint, by Writing under his Hand, a proper Person (not interested in the said Division and Inclosure) to be a Commissioner in the Room and Stead of the said *Charles Carter*, or of such other Person appointed in his Stead so dying, neglecting, refusing, or

or becoming incapable to act as aforesaid; and in case the said *William Gribble*, or any Person hereafter to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as aforesaid, then and in every such Case the surviving or continuing Commissioner, as the Case may be, within One Calendar Month next after such last-mentioned Death, Neglect, Refusal, or Incapacity shall have been made known to him, shall, by Advertisement in the Newspapers called "The *North Devon* Journal" and "The County and *North Devon* Advertiser" respectively, or one of them, or some other Newspaper then printed or circulated in the said County of *Devon*, and by Writing under his Hand, to be affixed on the Door of the Parish Church of *Bratton Fleming* aforesaid upon a *Sunday* immediately before Divine Service, give Notice of a Meeting to be held within the said Parish or within Eight Miles thereof, at least Fourteen Days before such Meeting, for the Purpose of appointing some Commissioner in the Place and Stead of the said *William Gribble*, or of the Person who shall have been 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 Poor's Rate Assessment, of the Proprietors or Persons interested in the Commons and Commonable and Waste Lands and Grounds by this Act directed to be divided and inclosed, or the known Agents and 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 and Inclosure, to be a Commissioner in the Room and Stead of the said *William Gribble* or of such Person appointed in his Stead so dying, neglecting, refusing, or becoming incapable to act as last aforesaid: Provided always, that if it shall happen that any Persons herein-before respectively authorized and empowered to appoint such new Commissioner shall not make any such Appointment within the respective Times herein-before for that Purpose limited, then and so often as it shall so happen the surviving or remaining Commissioner from Time to Time shall, within Three Weeks next after the Expiration of such Time allowed for appointing such new or succeeding Commissioner as aforesaid, by Writing under his Hand nominate and appoint some other fit and proper Person to be a Commissioner in the Place and Stead of every such Commissioner so dying, neglecting, refusing, or becoming incapable to act as aforesaid; and every new Commissioner so nominated and appointed under either of the Powers herein-before given 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.

VI. And be it further enacted, That if any Commissioner shall neglect to attend at One of the first Two Meetings appointed to be held for putting this Act into execution, and to qualify himself by making the Declaration in that Behalf prescribed (Notice being given to him of such intended Meetings under the Hand of the other Commissioner), or if any Commissioner shall at any Time after having

having qualified himself as aforesaid, he having first known of such Meetings by his Presence at the Appointment thereof, or having Notice thereof in Writing given to him, or left at his Place of Abode, under the Hand of the Clerk of the said Commissioners, 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 a 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.

A Surveyor may be appointed.

VII. And be it further enacted, That it shall be lawful for the said Commissioners, if they shall think fit, by Writing under their Hands to appoint One or more fit and proper Person or Persons, not interested in the Premises, to be a Surveyor or Surveyors for the Purposes of this Act, during the Will and Pleasure of the said Commissioners, and on every future 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 Commissioners 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 Thirty Pounds for surveying, measuring, mapping, and planning the said Commons and Waste Lands, exclusive of and in addition to the ordinary Charges for copying the said Maps and Plans to annex to the Award or Awards of the said Commissioners herein-after mentioned, and also any Sum not exceeding One Pound Eleven Shillings and Sixpence 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 or about the Execution of this Act.

Surveyor to make a Declaration.

VIII. 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 a Declaration in the Form or to the Effect following; (that is to say,)

'I 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 a Surveyor by virtue of an Act passed in the Year of the Reign of Her Majesty Queen *Victoria*, 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 it shall be lawful for any One of the said Commissioners, or for any Justice of the Peace for the said County of *Devon*, to administer or receive; and such Declaration so made and subscribed shall be annexed to or deposited with the Award of the said

said Commissioners, and an Office Copy thereof shall be admitted as legal Evidence.

Penalty on making false Declaration.

IX. And be it further enacted, That any Person making and subscribing a false Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, shall be subject to the like Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are or may be subject or liable.

Appointment of Clerk.

X. And be it further enacted, That the said Commissioners shall have Power and they are hereby authorized to appoint some fit and proper Person to be a Clerk to assist them 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 Commissioners 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 Commissioners and Clerk.

XI. 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 Commissioners and Umpire shall respectively be paid for each and every Day they shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, during the first Year next after the passing of this Act, the Sum of Three Pounds and Three Shillings each, and no more, and after the Expiration of the said first Year, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings each, and no more, for each and every Day they shall be respectively employed as aforesaid, in full Satisfaction for their Time and Trouble and for their several Journies and Attendances in the Execution of this Act or the said recited Acts; and the Clerk to be appointed by them as herein-before directed shall be paid the Sum of Two Pounds and Two Shillings, and no more, for each and every Day he shall travel or be employed in any Business relating to the Execution of this Act or the said recited Acts, in full Satisfaction for his Time and Trouble, and for his 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, preparing, copying, engrossing, and enrolling the Award of the said Commissioners, and Copies thereof, and of preparing and copying the Notices and Advertisements and the Proceedings of the said Commissioners, or any Matter or Thing relating thereto.

Regulating the Duration of Meetings.

XII. 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

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 Commissioners and the said Clerk shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk, in which shall be entered the several Days on which the said Commissioners shall hold the Meetings, and at what Hour the said Commissioners were first present thereat, and at what Hour they severally left or adjourned the same, and such Book shall be signed by the said Commissioners 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 may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or such Clerk, out of the Monies to be received by them or over which they 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 Commissioners and Clerk respectively beyond Two Thirds of such Allowance as they shall be entitled to as aforesaid, (except the Expences of preparing, soliciting, and passing this Act,) 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 Commissioners 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 Commissioners or either of them, or of the said Clerk, previous to the Execution of the said Award, the Commissioners 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 Commissioners, or of such deceased Clerk, such Sum of Money as shall appear by the said Accounts to be due thereon.

Notice and Adjournment of Meetings.

XIII. And be it further enacted, That the said Commissioners shall and they are hereby required to give or cause to be given public Notice in Writing, to be affixed upon the principal outer Door of the Parish Church of *Bratton Fleming* aforesaid on some *Sunday* before Divine Service, of the Time and Place of their First and every other Attendance or Meeting for the Execution of this Act or of the Powers contained in the said recited Acts, at least Ten Days before any such Attendance or Meeting (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn their Attendance or Meeting, or in case of their Absence the Clerk to the said Commissioners shall and may adjourn any such Attendance or Meeting, from Time to Time as there be Occasion for the further Execution of this Act.

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 Commissioners shall be so given by Advertisement in the said *North Devon Journal* and *County and North Devon Advertiser*, or in some other Newspaper

paper printed or circulated within the said County of *Devon*; and all the Meetings of the said Commissioners for the Execution of the said recited Acts and this Act shall be held within the said Parish, or within Eight Miles thereof.

Proprietors to pay their Expences.

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

Objections to Claims, &c. how to be made.

XVI. And be it further enacted, That if any of the Parties interested in the Premises shall have any Objection to any of the Accounts or Claims which shall be delivered to the said Commissioners by virtue of the said recited Acts or this Act, such Objection shall, within such Time as the said Commissioners shall appoint, by Notice to be inserted in any such Newspaper as aforesaid, be reduced into Writing, and Two Parts thereof shall be signed by the Party making the same, or by some Agent or Person on his Behalf, and one Part thereof shall be delivered to the said Commissioners, or left at the Office of the Clerk of the said Commissioners, and the other Part thereof shall be delivered to the Party whose Claim or Account shall be objected to, or to his Agent, or left at his last or usual Place of Abode, at such Time as the said Commissioners shall appoint for that Purpose; and no Objection to any of the said Accounts or Claims shall be afterwards received by the said Commissioners, unless for some special Cause to be allowed by them.

Commissioners to settle Disputes.

XVII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, as soon as conveniently may be after the passing of this Act, by such Evidence, Ways, and Means as they shall deem expedient, to ascertain the respective Rights of Common of the several Persons having or claiming to have any Right or Interest in, to, upon, or over the said Commons and Commonable and Waste Lands and Grounds, or any Part thereof; and if any Difference or Dispute shall arise between any of the said Parties interested or claiming to be interested in the said Commons and Commonable and Waste Lands and Grounds, or any Part thereof, touching or concerning the respective Rights and Interests which they or any of them shall have or claim to have in the same, or touching or concerning any Allotment, Compensation, or Provision to be made in lieu or in respect thereof, or touching or concerning any other Matter or Thing relating to the said Commons and Commonable and Waste Lands and Grounds, or the Inclosure, Division, or Allotment thereof, it shall be lawful for the said Commissioners and they are hereby authorized and required to examine into, hear, and determine every such Difference or Dispute by the Evidence of Witnesses on Oath or Affirmation (which Oath or Affirmation the said Commissioners are hereby authorized to administer), or by other proper and sufficient Evidence; and the Determination of the said Commissioners touching every or any such Right, Interest, Claim, Difference, or Dispute as aforesaid shall be final and conclusive upon the several Parties interested or claiming to be interested in the

Matter in question, and upon all other Persons, Bodies, and Parties whomsoever, but subject nevertheless to the Power herein-after given to the said Parties respectively to have such Matter in question tried and determined by an Action at Law as is herein-after mentioned.

Commissioners not to determine Titles.

XVIII. And be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine the Title to any Messuages, Lands, Tenements, or Hereditaments whatsoever, nor to determine any Right between any Parties contrary to the Possession of any such Parties, (except in the Case of Encroachments made within the Period of Twenty Years,) but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession they 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.

For compelling the Attendance of Witnesses.

XIX. And be it further enacted, That if any Person having been summoned according to the Directions of the first-recited Act to testify the Truth upon Oath touching any Matter in difference between any of the Parties interested in the Premises, or otherwise, relating to the Execution of the Powers given by the said recited Acts and this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the said Commissioners, to defray the Charges of his Attendance, shall not appear before the said Commissioners pursuant to such Summons without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to be examined and give Evidence touching the Premises, the said Commissioners, upon Proof thereof made before them upon Oath, (which Oath the said Commissioners or any one of them are or is hereby empowered to administer,) shall and they are hereby authorized, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to appear and be sworn and give Evidence, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as aforesaid shall be applied towards defraying the Costs and Expences of obtaining this Act and carrying the said recited Acts and this Act into execution.

Power to award Costs

XX. And be it further enacted, That in case the said Commissioners shall, upon the hearing or determining of any Claim or Objection to be delivered to them in pursuance of the said recited Acts or this Act, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs as they shall think reasonable to be paid to the Party in whose Favour any Determination of the said Commissioners shall be made by the Person or Corporation whose Claim or Objection shall be thereby disallowed or overruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Per-

son or Corporation who shall be liable to pay such Costs shall neglect or refuse to pay the same upon Demand it shall be lawful for the said Commissioners and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Corporation so neglecting or refusing to pay the same, rendering the Overplus (if any), upon Demand, to the Person or Corporation 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 Corporation, then and in either of the said Cases it shall be lawful for the Party in whose Favour such Costs shall be awarded to recover the same by Action of Debt or on the Case, in which 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 Commissioners, and in consequence of such Order, without setting forth any other Proceedings under this Act.

Allowing Parties to try their Rights at Law.

XXI. Provided always, and be it further enacted, That in case any Person or Corporation interested or claiming to be interested in the said intended Division and Allotment shall be dissatisfied with any Determination of the said Commissioners touching or concerning any Claim or Objection which shall be delivered to the said Commissioners in pursuance of the said recited Acts or this Act, or touching or concerning any Property, Right, or Interest intended to be affected by such Determination, except where the Determination of the said Commissioners is hereby declared to be final, it shall be lawful for the Person or Corporation so dissatisfied to cause an Action to be brought in one of Her Majesty's Courts of Record at *Westminster* upon a feigned Issue against the Person or Corporation in whose Favour any such Determination shall have been made, within Three Calendar Months next after the Determination of the said Commissioners shall have been notified in Writing to the Party against whom such Determination shall have been so made, or his known Agent or Attorney; and thereupon the Person or Corporation so dissatisfied shall proceed to a Trial at Law of the Matter so determined by the said Commissioners at the then next Assizes to be held for the County of *Devon* after such Action shall have been commenced, unless such Assizes shall happen within Three Calendar Months next after such Action shall have been so commenced, and in that Case at the Second Assizes to be held for the said County next after such Action shall have been so commenced; and the Defendant in such Action shall and he is hereby required to name an Attorney who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Property, Right, or Interest thereby insisted upon, may be tried and determined, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced in case the Parties shall differ about the same; and the Verdict which shall be given upon the Trial of such Action shall be binding, final, and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new

Trial to be had therein, which it shall be lawful for the said Court to do in case the said Court shall think proper; and after such Verdict shall be obtained, and not set aside, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim thereby determined, according to the Event of such Trial: Provided always, that if no such Notice shall be given, or if any such Notice shall be given, and such Action at Law shall not be commenced as aforesaid, or if any such Action shall be commenced, and the Plaintiff therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then the Determination of the said Commissioners shall be final, binding, and conclusive to all Intents and Purposes whatsoever: Provided also, that if any of the Parties in any such Action to be commenced as aforesaid shall die before the Determination thereof, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

In case of Deaths of Parties before Action brought.

XXII. Provided always, and be it further enacted, That 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 any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action, it shall be lawful for the Person or Corporation who might have brought such Action against the Person so dying to bring the same within the Time so limited as aforesaid against such Person as if actually living, and to serve the Clerk of the said Commissioners, and the Heir at Law or Devisee of the Person who shall have so died as aforesaid, with Process for commencing such Action, in the same Manner as the Party so dying might have been served therewith if living; and it shall be incumbent on the Heir or other Person who shall claim the Benefit of such Determination as aforesaid, and who shall have been served with such Process, to appear and defend such Action in the Name of the Person so dead; and Proceedings shall be had therein in the same Manner as if such Person had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action.

Suits not to delay the Execution of the Act.

XXIII. Provided also, and be it further enacted, That no such Difference, Suit, or Proceeding as aforesaid, nor any Difference, Suit, or Proceeding respecting the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the Proceedings of the said Commissioners in the Execution of this Act, but the Division, Allotment, and Inclosure by this Act directed to be made 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 Person or Corporation who by the Determination of such Difference, Suit, or Proceeding respectively shall become entitled to the same.

Surveys of inclosed Lands not to be made

XXIV. And be it further enacted, That nothing in the said first herein-before recited Act referred to or in this Act contained shall extend to require the said Commissioners, or any Surveyor to be appointed by

unless the Commissioners shall deem it necessary.

by virtue of this Act, to make or cause to be made any Survey, Admeasurement, or Plan of any of the inclosed Lands or Grounds within the said Parish, or any of them, unless the said Commissioners shall in their Judgment deem such Survey, Admeasurement, or Plan necessary or expedient for the Purposes of this Act.

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

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

Power to straighten Boundary Fences.

XXVI. 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 Parish aforesaid, or between such Allotments and inclosed Lands, or any of them, and the Lands and Grounds in any adjoining Manor, it shall be lawful for the said Commissioners, with the Consent of the Lords or Ladies of the Manors in which the Lands are respectively situate, and the Owners of the Lands adjoining 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 thereof, and to set out, ascertain, and determine such Boundaries as the said Commissioners 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 Persons in such Manner and at such Times as the said Commissioners shall order or 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 Allotments and inclosed Lands and any adjoining Manor, any Law, Usage, or Custom to the contrary notwithstanding.

Power to stop up or divert Roads.

XXVII. 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 Act, the said Commissioners shall and they are hereby authorized and empowered, if they 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 or allotted by virtue of this Act, or passing or leading through or over any of the Lands or Grounds within the said Parish of *Bratton Fleming*; and the Soil of the said Roads and Ways so to be discontinued and stopped

stopped up shall be deemed and taken to be a Part of the Lands and Grounds to be divided and allotted by virtue of this Act, except such Roads and Ways as shall be private Property of any Individual other than the Lord of the Manor as Lord: Provided always, that nothing herein contained shall authorize the diverting or altering of any Turnpike Road leading through the said Parish, 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: Provided also, that no such Carriage Road, Highway, Bridle Road, or Footway passing through any of the inclosed Lands within the said Parish shall be so discontinued, stopped up, diverted, turned, or altered, without the Consent and Order in Writing of Two Justices of the Peace of the County of *Devon*.

Proceedings previous to stopping up or diverting Roads.

XXVIII. Provided always, and be it further enacted, That before any such Order as herein-before is mentioned shall have been made, or any public Carriage Road, Highway, Bridle Road, or Footway shall be discontinued, stopped up, diverted, or altered by the said Commissioners, the said Commissioners shall cause to be affixed, at each End of the 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 Commissioners acting under or by virtue of this Act; and the said Commissioners shall also cause the same Notice to be inserted in the said *North Devon Journal* and *County and North Devon Advertiser*, or some other Newspaper published or generally circulated in the said County of *Devon*, for Four successive Weeks, and shall also cause a like Notice to be affixed on the principal outer Door of the Church of the said Parish of *Bratton Fleming* 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, and after such Order as aforesaid shall have been made in Cases where the same shall be necessary under the Provisions of this Act, the said public Carriage Road, Highway, Bridle Road, or Footway shall be and shall be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Devon* as is herein-after mentioned.

Persons thinking themselves aggrieved may appeal.

XXIX. 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, within Four Calendar Months after the Date of the said Order, where such Order shall be necessary under the Provisions of this Act, or where the same shall be unnecessary, within Four Calendar Months after the last of the said Notices shall have been so affixed and published as aforesaid, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioners or their 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

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.

Jury at Sessions to determine whether the Road shall be stopped up, &c.

XXX. 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 shall 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 be paid by the Party appealing to the said Commissioners, 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 not unnecessary, 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, stopped up, diverted, or altered by the Order of the said Commissioners to its original State, and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party 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 Commissioners, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money necessary for discharging the Costs, Charges, and Expences of this Act.

Expences of stopping up or discontinuing Roads.

XXXI. And be it further enacted, That the Charges and Expences attending the stopping up or discontinuing of such Roads shall be raised and paid in such Manner, by such Persons, and in such Proportions as the said Commissioners shall direct.

Justices may certify Roads in part.

XXXII. 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 first-recited Act and this Act shall be made and completed it shall be lawful for any Two or more of Her Majesty's Justices of the Peace for the said County of *Devon*, if they shall think fit, from Time to Time to certify and declare under their Hands and Seals any of such public Carriage

Roads so to be set out to be fully and sufficiently formed, repaired, and completed; and such 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 Persons and in like Manner as the public Roads within the Parish of *Bratton Fleming* 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 said County of *Devon* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

For extinguishing Rights of Common.

XXXIII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized, at any Time before the Execution of the Award to be made by them in pursuance of the said recited Acts and this Act, by any Writing under their Hands, to be affixed on the principal outer Door of the Church of *Bratton Fleming* aforesaid on some *Sunday* before Divine Service, to order the Rights of Common or Feeding in, over, and upon the said Commons and Commonable and Waste Lands and Grounds to be extinguished either in the whole or in part, or be suspended for and during such Time and under such Regulations as shall be expressed in such Writing; and all such Rights as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time of affixing such Writing on the said Church Door respectively, or any other Time to be appointed by the said Commissioners by such Writing, cease, determine, and be extinguished, or the Exercise thereof suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

Encroachments.

XXXIV. And be it further enacted, That all Encroachments and Inclosures which have been made or taken by any Person whomsoever in, upon, or from the said Commons and Commonable and Waste Lands and Grounds, or any Part thereof, within Twenty Years last past before the passing of this Act, whether any Amerciament, Rent, or Acknowledgment hath or hath not been paid for or in respect of the same to or for the Use of the Lord of the Soil or any other Person whomsoever, shall be deemed and taken to be Part and Parcel of the Lands by this Act directed to be inclosed, divided, and allotted; and in case any Dispute or Question shall arise touching any such Encroachment or Inclosure, or the Extent or Duration thereof, such Dispute or Question shall be heard, settled, and determined by the said Commissioners: Provided nevertheless, that it shall be lawful for the several Persons who shall be in Possession of such Encroachments and Inclosures, or in receipt of the Rents or Profits thereof, at the Time of the passing of this Act, to take down, take up, remove, and carry away all such Buildings, Fences, and other Erections as shall then be on such Encroachments and Inclosures respectively, and to convert the same and the Materials thereof to their own respective Uses, without any Interruption from the said Commissioners, or any of their Officers, Agents, or Servants.

XXXV. Pro-

Encroachments to be allotted to the Party in Possession.

XXXV. Provided always, and be it further enacted, That the Land comprised in any Encroachment hereby directed to be divided, allotted, and inclosed as aforesaid shall (without Regard paid to any Improvement since made thereon) be allotted to the Person or Persons in Possession thereof, so far as he, she, or they shall be entitled by virtue hereof to any Allotment of equal or sufficient Value, and in that Case the Value of such Encroachment shall, according to the Circumstances, be deemed a partial or entire Compensation for the Allotment or Allotments to which such Person or Persons shall be entitled by virtue of this Act; but if such Person or Persons shall not be entitled to any Allotment, or to any Allotment equivalent in Value to such Encroachment, then the said Commissioners shall sell the said Encroachment or Surplus thereof to the Person in Possession of the same for such Sum of Money as shall be the fair Value thereof, independent of any Improvement made thereon, in case such Person shall desire to be the Purchaser of such Encroachment or Surplus, but in case such Person shall refuse to purchase the same, or shall neglect to pay the Purchase Money for the same, within Three Months after the Value thereof as fixed by the said Commissioners shall have been communicated to him by the said Commissioners, by a Notice in Writing, either delivered to him personally or left at his Place of Abode, then and in such Case such Encroachment or Surplus, as the Case may require, shall be deemed Part of the Land to be divided, allotted, inclosed, or disposed of by virtue hereof.

Expences of Inclosure to be defrayed by Sale of a sufficient Part of the Commons, &c.

XXXVI. And for the Purpose of defraying and discharging the Costs, Charges, and Expences preparatory or incident to or attending the obtaining and passing of this Act, or which have been or shall be incurred in consequence thereof or with reference thereto, and the Costs and Charges of surveying, admeasuring, planning, dividing, and allotting the said Commons, Commonable and Waste Lands and Grounds, pursuant to the Directions of this Act, and of preparing and enrolling the Award of the said Commissioners by virtue hereof, and of forming, completing, repairing, stopping, diverting, or altering any Roads or Ways, and of making, enlarging, widening, scouring, cleansing, removing, altering, and rebuilding any Ponds, Pits, Watering Places, Ditches, Watercourses, Tunnels, Sluices, Banks, or Bridges, and of inclosing, hedging, ditching, or fencing any Allotment or Allotments, under the Powers and Authorities of the said recited Acts and this Act, or any of them, and the Costs and Charges to be incurred by the said Commissioners relating to any Encroachment or Inclosure which before the passing of this Act shall have been made or taken upon or from the said Commons, Commonable and Waste Lands or Grounds, or any Part or Parts thereof, or in or relating to any Appeal, Action at Law, or other Proceeding by or against the said Commissioners or their Clerk, or any of their Officers or Servants, touching or concerning any Determination of the said Commissioners, or any thing done or omitted to be done by them or under their Direction in the Execution of the Powers of the said recited Acts and this Act, or any of them, and the Costs and Charges of any Sale or Sales to be made by the said Commissioners under the Authority of this Act, and the Costs and Charges to be incurred for the

the Time, Trouble, Journies, Attendances, and Expences of the said Commissioners and Surveyor, and of the Clerk, Assistants, Officers, and Servants to be employed by the said Commissioners in or about the Execution of the said recited Acts or this Act, and all other the Costs and Charges to be incurred by the said Commissioners in the Execution of the said recited Acts or this Act; be it further enacted, That it shall be lawful for the said Commissioners and they are hereby required, as soon as conveniently may be after the passing of this Act, and from Time to Time as they shall find it expedient, to sell and dispose of by public Auction in Lots such and so many Parts and Parcels of the said Commons, Commonable and Waste Lands and Grounds, with any Erection or Erections thereon, as the said Commissioners shall deem necessary or expedient for the Purpose of raising Money sufficient for or towards defraying or discharging the several Costs, Charges, and Expences aforesaid, and every or any of them; and the Purchase Monies to arise by such Sale or Sales shall be paid into the Hands of the said Commissioners, and shall be by them applied in or towards defraying and discharging the said several Costs, Charges, and Expences, and every of them; and the several Receipts of the said Commissioners for such respective Purchase Monies shall be sufficient Discharges to the respective Purchasers for the same; and upon Receipt of the whole Purchase Money for any of the Premises which shall be so sold as aforesaid the said Commissioners shall and they are hereby authorized to grant and convey the said Premises and the Fee Simple and Inheritance thereof in Possession, by One or more Deed or Deeds under their Hands and Seals, unto and to the Use of or in Trust for the Purchasers thereof, and their Heirs and Assigns, or unto, upon, and for such Uses, Trusts, and Purposes as such Purchaser shall direct; and immediately upon and after the Execution of such Deed or Deeds by the said Commissioners the Premises therein described, and thereby granted and conveyed, with their Appurtenances, shall become vested as Freehold of Inheritance in such Purchasers and their Heirs and Assigns, or in such other Persons, and unto, upon, and for such Uses, Trusts and Purposes as in and by such Deed or Deeds shall be mentioned, expressed, and declared; and every or any such Conveyance may be in the following Form or to the like Effect; that is to say,

Form of Conveyance.

'WE the Commissioners acting in execution
' of an Act passed in the Year of the Reign of Her
' Majesty Queen *Victoria*, intituled [*here insert the Title of this*
' *Act*], by virtue of the Power and Authority to us given by the said
' Act, and in consideration of the Sum of paid
' into our Hands by which said Sum is the whole
' Purchase Money agreed to be paid by him to us for the Purchase
' of the Lands and Hereditaments herein-after described, being Part
' and Parcel of the Lands by the said Act authorized to be sold and
' disposed of by us, and which said Sum is to be by us applied and
' disposed of in the Manner directed by the said Act, and the
' Receipt of which said Sum we do hereby acknowledge, do by
' this Deed under our Hands and Seals, by the Direction of the said
' testified by his executing these Presents, grant and
' convey unto his Heirs and Assigns, all that [*here*
' *describe*

'*describe the Premises*], together with the Appurtenances to the 'said Premises belonging, and the Fee Simple and Inheritance 'thereof in Possession, to have and to hold the same unto the said ' his Heirs and Assigns [*here state the Uses, Trusts,* '*or Purposes of the Conveyance, as the Case may require*]. Dated 'this Day of in the Year of our Lord .'

And all such Purchase Monies as shall be from Time to Time raised or received by the said Commissioners by such respective Sales as aforesaid shall, after Payment of the Charges and Expences attending such respective Sales, be paid and applied by the said Commissioners for or towards defraying and discharging the several Costs, Charges, and Expences herein-before mentioned or referred to; and the respective Purchasers or other Persons paying the same shall not in any Manner be liable to see to the Application or be answerable for the Misapplication thereof.

Purchasers to be subject to Regulations to be made by the Commissioners.

XXXVII. And be it further enacted, That the several Persons who shall become the Purchasers of the said Lands so authorized and directed to be sold and disposed of by the said Commissioners as aforesaid, and their respective Heirs and Assigns, shall be subject and liable to the making and keeping in repair of such and so much of the several Fences thereof as shall be directed by the said Commissioners, and also to the Observance and Performance of all such Orders, Regulations, and Directions as shall be made, laid down, directed, or appointed by the said Commissioners in and by their Award or any other Writing under their Hands, in like Manner as if such Premises respectively had been allotted to such respective Purchasers for or in respect of any Right or Interest in, over, or upon the said Commons, Commonable and Waste Lands and Grounds, except only that such respective Purchasers shall not after the Payment of their Purchase Money be liable to the Payment of any of the Charges or Expences of obtaining this Act, or of carrying the same or the said recited Acts into execution, other than the Charges of making and keeping in repair such Fences as aforesaid.

In case Monies raised for Expences by Sale shall be insufficient, the Remainder to be paid by the Proprietors.

XXXVIII. And be it further enacted, That if the Monies to be produced by the Sale or Sales herein-before directed to be made shall not be sufficient to pay all the Costs, Charges, 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 said Commissioners, Clerk, and Surveyor for Expences, Time, and Trouble, and the Costs and Charges that the said Commissioners shall be put unto in respect of any Appeal against their Decision, or of any Suit or Suits at Law or in Equity that may be instituted by or against such Commissioners in the Execution of this Act either before or after the Execution of their Award, and all other Costs, Charges, and Expences necessarily incurred in and about the carrying of this Act and the said recited Acts into execution, then the Deficiency shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds to be allotted, divided, and inclosed, in such Shares and Proportions, and at such Times, and to such Persons as the said Commissioners shall by Writing under their Hands from Time to Time order and direct;

direct; and in case any Person shall refuse or neglect to pay his Proportion of such Costs, Charges, and Expences as aforesaid within the Time and to such Persons as the said Commissioners shall appoint, then and in such Case the said Commissioners shall and may, by Warrant under their Hands and Seals directed to any Person whomsoever, cause the same, together with lawful Interest, to be computed 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 so neglecting or refusing to pay the same, rendering the Overplus, if any, on Demand, to the Owner of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale; or it shall and may be lawful to and for the said Commissioners, or any Person authorized by them, 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 and take the Rents, Issues, and Profits thereof until thereby or therewith or otherwise such Share or Proportion, Shares or Proportions, with lawful Interest for the same, to be computed from the Time such Sum of Money shall be ordered to be paid, and also all the 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.

Any Deficiency may be made good by Calls upon the Persons interested.

XXXIX. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any Sale or Sales hereby directed to be made, and by any previous Rate or Rates, shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Call or Calls to be made and levied upon the several Persons interested in the said Lands and Grounds hereby directed to be divided, allotted, and inclosed, in such Shares and Proportions, within such Times, and to be paid to such Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share and Proportion of any such Call or Calls within the Time or Times to be respectively appointed as aforesaid, or at any Time after upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Call.

Monies may be recovered after the Execution of the Award.

XL. Provided also, and be it further enacted, That if at the Time of the Execution of the said Award there shall remain due from any Person or Corporation any Sum of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners, and they are hereby authorized and required, to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

XLI. And

Commissioners may borrow Money at Interest.

XLI. And be it further enacted, That it shall be lawful for the said Commissioners, from Time to Time as they in their Discretion shall think proper, to borrow of any Person willing to lend the same such Sums of Money as may be deemed necessary for paying the Expences of applying for and obtaining and executing this Act; and the Person who shall lend or advance any 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.

Allotment for Materials for Repair of Roads.

XLII. And be it further enacted, That the said Commissioners shall, if they shall think fit, set out and allot unto the Surveyors for the Time being of the Highways within the said Parish of *Bratton Fleming* aforesaid, and to their Successors for ever, such Parcel or several Parcels of the Lands and Grounds hereby directed to be inclosed, divided, and allotted as they the said Commissioners shall think necessary and most convenient as an Allotment or Allotments for supplying Materials for the Repairs of the several Roads and Ways to be appointed or set out by them in, upon, or over the said Commons, Commonable or Waste Lands and Grounds, or any Part thereof, and of the several other public Roads and common Highways within the said Parish; and such Allotment or several Allotments shall be inclosed and fenced in such Manner as the said Commissioners shall direct, and when set out and allotted shall at all Times thereafter be considered and deemed to be absolutely vested in the Surveyors for the Time being of the Highways within the said Parish, and their Successors for ever, for and towards the Repair and Benefit of the several Roads and Ways to be appointed and set out by the said Commissioners in, upon, or over the said Commons, Commonable and Waste Lands and Grounds, and the several other public Roads and common Highways within the said Parish.

Peat Bogs.

XLIII. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required to set out and allot and award unto the Lord of the said Manor of *Bratton Fleming*, his Heirs and Assigns, but upon Trust for himself, his Heirs and Assigns, and the Person and Persons herein-after mentioned, so much and such Parts of the Peat Bogs or other Lands whereon Peat or Turf is produced on the said Commons, Commonable and Waste Lands and Grounds, as they shall think sufficient for the Use and Benefit of and for supplying the said Lord of the said Manor for the Time being, and also the several Occupiers for the Time being of Houses within the said Manor, with Turf or Peat to be used or consumed within such Houses only, and not to be sold or otherwise disposed of, together with a convenient Road or Roads to and from the same, such Road or Roads to be repaired by the several Persons having Right of Turbary in such Proportions as the said Commissioners by their Award shall direct.

Allotment to the Lord of the Manor.

XLIV. And be it further enacted, That the said Commissioners, after they shall have appointed and set out such Parts of the said Commons, Commonable and Waste Lands and Grounds, as they shall think

think necessary for the said Roads and Ways by the said recited Act and this Act, or any of them, directed or authorized to be set out, and after they shall have set out the several Allotments which they shall think necessary for supplying Materials for the Repairs of Roads and Ways, and Turbaries, and the several Lands and Allotments for Sale as is herein-before directed, shall and they are hereby authorized and required to set out and allot unto and for the Lord of the said Manor of *Bratton Fleming* so much and such Part and Parts of the Remainder of the said Commons, Commonable and Waste Lands and Grounds, hereby directed to be inclosed, divided, and allotted, as shall, in the Judgment of the said Commissioners, be equal together and in the whole to One Twentieth Part in Value of the Residue of the said Commons, Commonable and Waste Lands and Grounds, which shall remain after such Allotments shall have been set out as aforesaid, as a Compensation and Satisfaction for his Right and Interest as Lord of the said Manor to and in the said Commons, Commonable and Waste Lands and Grounds, or any Part thereof, and to and in the Soil of the same or any Part thereof.

Allotment of a Place of Exercise for Inhabitants.

XLV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and they are hereby authorized to set out, allot, and award unto the Lord for the Time being of the said Manor, out of any Part of the Lands and Grounds to be inclosed by virtue of this Act, a Piece of Land or Ground, not exceeding Four Acres nor less than Two Acres, as a Place of Exercise and Recreation for the Inhabitants of the said Parish, and such Allotment shall be held by the Lords of the said Manor for the Purposes aforesaid.

Allotment of the Residue.

XLVI. And beit further enacted, That the said Commissioners shall set out, allot, and award the Residue of the said Commons, Commonable and Waste Lands and Grounds, hereby directed to be divided, allotted, and inclosed, unto and amongst the several Persons who at the Time of such Division, Allotment, and Inclosure shall be interested therein, according to their several and respective proportionable Rights or Interests therein respectively; and in setting out the several Allotments to be made under and by virtue of this Act the said Commissioners shall and they are hereby required to have due Regard to Situation and Convenience as well as to the Quantity and Quality of the Lands to be allotted, so as that the Allotments of all Persons be laid as near together and as contiguous to their several Farms and Estates as conveniently may be, consistently with the general Convenience of the Parties interested in the said Division, Allotment, and Inclosure.

Old Inclosures may be allotted with Consent.

XLVII. And be it further enacted, That it shall be lawful for the said Commissioners, by and with the Consent in Writing and at the Request of the several Owners or Proprietors of any Messuages or Tenements and old inclosed Lands within the said Parish of *Bratton Fleming*, whether such Owners or Proprietors shall be Corporations 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 Lessors of any such Messuages

suages or Tenements and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and 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 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, (such Consent to be respectively testified in Writing under the Common Seal of such Corporations, and under the Hands of the other consenting Parties respectively,) to order and direct such Messuages or Tenements and old inclosed Lands to be considered as allottable Lands, and Part and Parcel of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed; and such Allowance shall be made to the respective Owners or Proprietors of any Messuages or Tenements and old inclosed Lands and Grounds, on account of the Situation and other beneficial Circumstances thereof, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby required to set out, allot, and award unto and for the respective Owners and Proprietors of such Messuages or Tenements and old inclosed Lands and Grounds, in lieu thereof, so much and such Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed as they shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said first-recited Act mentioned.

Alterations may be made in Allotments before the Award.

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

Commissioners to appoint a Time for receiving Applications for Situations of Allotments.

XLIX. And be it further enacted, That the said Commissioners shall and they are hereby required to give Ten Days Notice of a Meeting for receiving Applications from the Owners and Proprietors of the Commons, Commonable and Waste 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.

L. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors in the Commons, Commonable and Waste Lands and Grounds, to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in lieu thereof, the said Commissioners 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 the said Commissioners shall adjourn such Meeting for the Space of Ten Days, to be held at the same Place, for the Purpose of enabling the said Proprietors to view their respective Allotments; and if any of the said Proprietors at such adjourned Meeting so to be held shall be dissatisfied with the proposed Allotments, the said Commissioners shall then, or at some other Time and Place to be appointed by them for that Purpose, receive Statements in Writing of the Complaints and Objections of any Proprietors against any such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same, and such Determination shall be binding and conclusive on all Parties interested in such Allotments.

For fencing Allotments.

LI. And be it further enacted, That the several and respective Allotments to be made of the Lands hereby directed to be divided, allotted, and inclosed, after the Division thereof, shall, within Six Calendar Months, to be computed from the signing and sealing of the Award of the said Commissioners, or within any shorter Space of Time to be appointed by the said Commissioners, be inclosed, and the Fences thereof made, 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 Commissioners shall in and by their said Award order and direct.

Power of Exchange.

LII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, and Hereditaments within the said Parish of *Bratton Fleming* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the same Parish, or any adjoining Parish, Township, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made at the Request in Writing of the Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owners shall be Corporations or Tenants in Fee Simple or Fee Tail, General or Special, or for Life, or by the Curtesy of *England*, or for Years determinable on any Life or Lives, by and with the Consent of the 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, such Consent to be testified in Writing under the Common Seal of the Corporation and under the Hands of

the

the other consenting Parties respectively; and all Exchanges so to be made shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchanges shall be made of any Lands, Tenements, or Hereditaments 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, Tenements, and Hereditaments so to be exchanged shall be situate: Provided always, that all the Costs, Charges, and Expences attending the making of any Exchanges shall be paid, borne, and defrayed by the several Corporations or Persons making such Exchanges in such Shares and Proportions, and at such Time, and to such Person or Persons as the said Commissioners shall by any Writing under their Hands direct or appoint.

Tenure of Allotments.

LIII. And be it further enacted, That the several Lands, Grounds, and Hereditaments to be allotted and awarded upon the said Division, Allotment, and Inclosure to the several Persons or Corporations interested therein shall, immediately after the same shall have been allotted and awarded, be holden by the said several Persons or Corporations 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 be so distinguished in the Award to be made by the said Commissioners.

In Cases of Sales before the Execution of the Award, the Commissioners may make the Allotments to the Purchasers.

LIV. And be it further enacted, That if any Person hath sold, or shall at any Time before the Execution of the Award of the said Commissioners sell, his Right, Interest, or Property in the said Commons, Commonable and Waste 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 Commissioners and they are 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 Heirs and Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Vendee or Purchaser, or his Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him 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; and it shall be lawful for any Person who shall be entitled to any Allotment under or by virtue of this Act to devise, give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or any Part thereof, or all or any Part of his Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award, and every such Gift, Grant, Bargain, Sale, Surrender, Demise,

Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and 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 any such Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment or Allotments accordingly.

Persons having limited Interests may raise Money by Mortgage for Expences.

LV. 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 Commons, Commonable and Waste Lands and Grounds, to be by virtue of this Act divided and allotted, being under Coverture, Infants, Idiots, Lunatics, 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, 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 Commissioners shall in their Discretion judge necessary for the Purpose of inclosing, fencing, and dividing their respective Allotments, and for defraying the Expences of carrying this Act into execution, not exceeding 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 Persons as shall advance or lend the same respectively, 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 or assigned, when such Sum or Sums thereby to be secured, with Interest thereon, 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 interested in or entitled to any such mortgaged Premises for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life, and so as that no Person 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.

LVI. And be it further enacted, That every Person to whom any Grant, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum of Money by him 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 Writing under his Hand and Seal, to be executed

executed in the Presence of and attested by One or more credible Witness or Witnesses, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, or Interest, and Term of Years then to come and unexpired of and to the same, unto any Person whomsoever, who may again in like Manner assign the same, and so *toties quoties;* and such Mortgagee or Assignee, his 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 taken, used, and pursued in Cases of the like Nature.

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

LVII. Provided always, and be it further enacted, That nothing in this Act contained, or to be contained in the Award of the said Commissioners, 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 Persons having any Right or Claim of Dower, Jointure, Portion, Rent-charge, Annuity, Debt, Rent, Incumbrance, or other Claim or Demand, out of or upon or affecting any of the Commons, Commonable Lands, Wastes or Waste Lands 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 partition or 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, Partition, or Assignment, remain and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange or on Partition 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 Powers 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, Partitions, 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, parted with, or assigned as aforesaid, and this Act had not been passed, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, 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 first-recited Act.

Separate Allotments to be made in respect of

LVIII. And be it further enacted, That when the Proprietors of Lands or other Hereditaments which shall be inclosed, allotted, or exchanged by virtue of this Act shall hold their respective Lands or other

other Hereditaments under different Titles or for different Estates, the said Commissioners 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 their Award set out and distinguish distinct and several Allotments for such respective Lands or other Hereditaments.

Land held under separate Titles.

LIX. 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 or Exchange of any Lands, Tenements, or Hereditaments, 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, 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 Commissioners out of such Sums to defray such a Proportion of the Expence 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 Corporation, 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 Expences of any permanent Improvement, such as building, subdividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made, and shall be made under their Direction, upon any Lands to be by virtue of this Act allotted to such Person or Corporation, 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 Commissioners for executing this Act, pursuant to the Method prescribed by an Act passed in the First Year of 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 Corporation or Person who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, be applied either in the Purchase or Redemption

Application of Monies paid for Purchases or Exchanges, if amounting to 200*l*.

1 G. 4. c. 35.

demption of the Land Tax, or in or towards the Payment or Discharge of any Debt or Debts, or other Incumbrance, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments belonging to such Person or Corporation, or settled therewith to the same Uses, 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 Corporation who would for the Time being have been entitled to the Rents and Profits of such Lands, Tenements, and Hereditaments so to be purchased, conveyed, and settled.

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

LX. 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 Corporation for the Time being entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased or exchanged, and of his or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, 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 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 Corporation who for the Time being would be entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments, such Nomination to be approved of by the said Commissioners, 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 Monies 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

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.

If less than 20*l.*

LXI. 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 Corporation 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 or their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to his or their Guardian or Guardians, Committee or Committees, Trustee or Trustees, to and for the Use and Benefit of such Person and Persons respectively entitled thereto.

Award to be made and deposited.

LXII. And be it further enacted, That the Award to be made by the Commissioners under the Authority of this Act and the said first-recited Act shall be executed and published within Three Years from the passing of this Act, and, together with a proper Map or Plan thereto annexed, shall, within Two Calendar Months after the Execution thereof, be delivered to the Clerk of the Peace for the County of *Devon*, 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 Pounds and Two Shillings, 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 true 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 Commissioners, shall within the Time aforesaid be deposited within the Parish Church of *Bratton Fleming* aforesaid, and there kept in a proper Box to be provided for that Purpose; and the said Award, and the said Copies thereof, and any other Copies of the said Award, or of any Part or Parts 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 from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Accounts to be audited.

LXIII. 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 passing thereof, the said Commissioners shall and they are hereby required to make a true and just Statement and Account of all the Sums of Money by them 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 and Account, when so made, together with the Vouchers relating thereto, shall be by them laid before One of Her Majesty's Justices of the Peace for the County of *Devon*, not interested in the said Inclosure, to be by him examined and balanced; and

and such Balance shall be stated in the Books of Account to be kept in the Office of the Person acting as Clerk to the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice, subject nevertheless to the Power of Appeal herein-after contained.

Power of Appeal.

LXIV. And be it further enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act or the said recited Acts, 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 Commissioners are directed to be final and conclusive, he may appeal to any General or Quarter Sessions of the Peace which shall be holden for the said County of *Devon* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and the Parties interested Ten Days Notice in Writing of such Appeal and the Matter thereof; except with respect to the Accounts of the Commissioners, 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 *Devon*, on giving to the said Commissioners such Notice as last aforesaid; and the Justices, not interested in the Premises, at the said General or Quarter Sessions of the Peace 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 and Warrant to levy the Costs which shall be awarded by Distress and Sale of the Goods and Chattels of the Parties liable to pay the same, rendering the Overplus, if any, to the 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 Her 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.

Saving to the Lord of the Manor.

LXV. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen, defeat, or affect the Right, Title, or Interest of the said Sir *Arthur Chichester*, or the Lord or Lords of the said Manor of *Bratton Fleming* for the Time being, of, in, or to the Seignories and Royalties incident and belonging to the said Manor, but that the said Sir *Arthur Chichester*, and all Persons claiming under or in Trust for him, as Lords of the said Manor of *Bratton Fleming* for the Time being, shall and may at all Times for ever hereafter have, hold, and enjoy all Rents, Services,

Courts, Perquisites and Profits of Courts, Mines, Goods and Chattels of Felons and Fugitives, Felons of themselves and put in exigent, Deodands, Waifs, Estrays, Forfeitures, and all other Royalties, Jurisdictions, Rights, and Pre-eminences whatsoever to the same Manor, or to the Lord thereof for the Time being, incident, appendant, belonging, or appertaining, other than and except the Mines, Delves, and Quarries lying within and under such Parts, Shares, and Proportions of the said Commons, Commonable and Waste Lands and Grounds, as shall or may be allotted and assigned to the several other Freeholders and Owners of Land lying and being within the said Manor of *Bratton Fleming*, or to any other Person or Persons not having any Lands within the said Parish or Manor, or within the Precincts thereof, as aforesaid, and other than and except such Common of Pasture and other Common Rights as can or may be claimed by or belonging to the Lord of the said Manor in and upon the Premises so intended to be divided and inclosed as aforesaid, in as full, ample, and beneficial Manner, to all Intents and Purposes, as he could or might have held or enjoyed the same before the passing of this Act, or in case the same had not been passed.

General Saving.

LXVI. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and all Persons and Corporations, 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 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.

Interpretation Clause.

LXVII. And be it further enacted, That where in this Act any Word is used importing the Singular Number or the 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.

Evidence Clause.

LXVIII. And be it further 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.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1838.